FISCAL NOTE
SENATE BILL NO. 2296
LC# 23.1009.02000
03/08/2023
Revised - 03/08/2023

1 - State Fiscal Effect

Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2021-2023 Biennium		2023-2025 Biennium		2025-2027 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$1,091,768	$676,328	$533,753	$676,328
Appropriations			$1,091,768	$676,328	$533,753	$676,328

2 - County, City, School District, and Township Fiscal Effect

Identify the fiscal effect on the appropriate political subdivision.

	2021-2023 Biennium	2023-2025 Biennium	2025-2027 Biennium
Counties			
Cities			
School Districts			
Townships			

3 - Bill and Fiscal Impact Summary

Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

SB 2296 relates to judicial deference in administrative hearings.

4 - Fiscal Impact Sections Detail

Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

DHHS COMMENTARY - Section 1 removes the agency's deference in interpreting or applying a regulation and statute. DHHS would need an increase in appropriation to pay the Office of Attorney General to represent DHHS on all cases before the Office of Administrative Hearings (OAH), an increase in district court appeals, and to pay OAH due to an increase in time spent on cases. DHHS will also need an additional FTE to write more detail into administrative rules and proposed statutory language to assure the agency's intent is clear and known. DHHS also anticipates section 1 to increase the need for additional appropriation as more individuals will be eligible for services

and assistance if "a judge may not defer to a governmental entity's interpretation of the statute, regulation, or rule."

ATTORNEY GENERAL COMMENTARY - The Attorney General's office (AG) would require two FTE attorney positions to handle the increased legal representation as a result of this bill.

INDUSTRIAL COMMISSION COMMENTARY - Current SB 2296 language is expected to increase the number of cases going to OAH and fewer complaints would be settled before going to hearing. The Industrial Commission spent an average of $150,000 on OAH proceedings in the most recent three biennia. SB 2296 is expected to double the number, time, and cost of OAH proceedings to $300,000 per biennium.

FINANCIAL INSTITUTIONS COMMENTARY - The bill requires a judge to resolve any ambiguity against increased agency authority. New financial products and services are constantly coming online, many similar to traditional products but with a twist that makes them different enough that agency interpretation has historically been used to determine if the new products fall within existing law. This may be interpreted by a judge to be increased agency authority under this bill; thus, the laws would need to be reviewed much more thoroughly and much more frequently to add the new products and services which are similar yet different to existing law each legislative session.

5 - Revenues Detail

For information shown under state fiscal effect in 1 or 2, please explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

FINANCIAL INSTITUTIONS COMMENTARY - No additional revenue would be generated with this bill. Funding would need to be through existing fee and assessment structures.

6 - Expenditures Detail

For information shown under state fiscal effect in 1 or 2, please explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

DHHS COMMENTARY - SB 2296 will require DHHS to use the Office of Attorney General to represent it on all cases before OAH, will increase the cost DHHS pays to OAH, and will require DHHS to hire an attorney to expand DHHS rules and proposed legislation to assure DHHS intent is clear and known. DHHS will need $65,700 for district court appeals, $20,000 for public notices, $458,252 to pay the Office of Attorney General, $120,938 to pay OAH, and $268,291 for an additional FTE, with a total cost of $933,181, of which $383,753 is general fund.

ATTORNEY GENERAL COMMENTARY - The cost of two FTE positions for the Attorney General's office would be $558,015.

INDUSTRIAL COMMISSION COMMENTARY - SB 2296 is expected to double the number, time, and cost of OAH proceedings to $300,000 per biennium, all of which is general fund - 70 percent Account 623175 Professionals Not Classified and 30 percent Account 623105 Legal - Administrative Hearings.

FINANCIAL INSTITUTIONS COMMENTARY - Based upon discussions with the Attorney General's office and Department staff, it is estimated that each non-depository statute would take approximately 60 attorney hours to review, with 7 statutes to review. The bank, credit union, and trust statutes are estimated to take 160 attorney hours each to review. That totals 900 attorney hours for each review cycle. The cost to the department would be $126,900 each biennium, assuming Attorney General staff time at the current billing rate of $141 per hour, and not the more expensive private sector, can be used for these reviews. It is expected this legal review would need to continue with a full review each biennium in preparation for the next legislative session, adding any new, yet similar, product or service items to existing law. This assessment does not include department staff time, only the expected increase in legal costs based on utilizing attorneys from the Attorney General's office and not the more expensive private sector attorneys.

7 - Appropriations Detail

For information shown under state fiscal effect in 1 or 2, please explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

DHHS COMMENTARY - For the 2023-2025 biennium, the DHHS anticipates the need for an additional $268,291 in SB 2012, section 1, subdivision one, in the salaries and wages line, of which $169,998 is general fund, and $664,890 in the operating line, of which $213,755 is general fund. For the 2025-2027 biennium, the DHHS would need an appropriation increase in salaries of $268,291, of which $169,998 is general fund, and an increase in operating expenses of $664,890, of which $213,755 is general fund.

ATTORNEY GENERAL COMMENTARY - The costs associated with this bill for the Attorney General's office are not included in the AG's budget request. The AG's office would need additional general fund appropriation authority in the amount of $558,015.

INDUSTRIAL COMMISSION COMMENTARY - For the 2023-2025 biennium, the Industrial Commission Department of Mineral Resources anticipates the need for an additional $150,000 in HB 1014, section 1, subdivision one, in the Operating expenses line, all of which is general fund.

FINANCIAL INSTITUTIONS COMMENTARY - The department would need appropriations of $126,900 each biennium to cover the increased legal costs.

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