

BDR 14-514 SB 451

LOCAL GOVERNMENT FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: April 3, 2015

Agency Submitting: Local Government

Items of Revenue or Expense, or Both	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect on Future Biennia
Total	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

See attached.

Name Michael Nakamoto

Title Deputy Fiscal Analyst

The following responses from local governments were compiled by the Fiscal Analysis Division. The Fiscal Analysis Division can neither verify nor comment on the figures provided by the individual local governments.

Local Government Responses
S.B. 451 / BDR 14 - 514

City/County: **Carson City**

Approved by: Nickolas A. Providenti, Finance Director

Comment: I think there is fair probability of a collateral short term fiscal impact which doesn't directly involve the City's assessment for the State Public Defender's services. Section 8 of the bill invites the Commission to offer recommendations as to standards which should be followed by attorneys providing representation to indigents. Based on the composition of the Commission, it is likely it will recommend that the existing systems and structures provide inadequate legal representation to indigent defendants. Based on some previous studies and reports from the Nevada Supreme Court, it is likely to ratify these kinds of recommendations from the Commission. It is likely that the Commission and Court will recommend more attorneys and better pay to address these deficiencies.

With respect to the City's obligation for services of the State Public Defender, this is all fine and good so long as Section 14 remains intact and assessments are frozen at 2014 levels.

We anticipate the standards imposed by the Commission and Court will be applicable to conflict attorneys. And no conflict attorney contract will be allowed if it "create[s] a financial incentive for the attorney to fail to meet the requirements for providing legal representation established by the Supreme Court." Section 9(5).

My understanding is that the conflict contract now is primarily flat fee with a few exceptions for certain kinds of work. I think there is a significant danger that the bill would invalidate a flat fee arrangement because it "creates a financial incentive" for an attorney to spend as little time as possible representing an indigent client (i.e., the compensation doesn't change no matter how much time they spend working for a client). This will likely be contrary to the Commission/Court's standards. . And Carson City will pick up the cost for adjusting the conflict contract to meet those standards.

We anticipate an impact, but the amount is unknown at this time.

Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Has Impact	\$0	\$0	\$0	\$0

City/County: **Churchill County**

Approved by: Eleanor Lockwood, County Manager

Comment: While there are portions of BDR 14-514 that are of great concern to Churchill County, we do not anticipate there to be a negative impact from this bill initially. However, with the decision of the "appropriate system for delivering indigent defense services for counties whose populations are less than 100,000" in the hands of the IDC using state public defense attorneys, the potential for the counties having to bear the burden of future increasing cost is concerning.

Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: **Clark County**

Approved by: David Dobrzynski, Assistant Director of Finance

Comment: No fiscal impact on Clark County is anticipated as the bill references counties whose population is less than 100,000.

Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: **Humboldt County**

Approved by: Matt Stermitz, Public Defender

Comment: This bill, as drafted, will (1) apparently require the County to pay the State an amount equal to the County Public Defender budget next year; (2) because Humboldt County is under 100,000 people and because the Humboldt County Public Defender employs less than 5 attorneys, the County Public Defender office will be eliminated and replaced by the State Public Defender; (3) the intent of the bill is to beef up the number of attorneys providing public defense than the County now employs. Obviously in future years the State will require the County to pony up more money. What is missing from all of this is the logistical impossibility of pulling this off. The Office of the State Public Defender previously failed to provide adequate services in the rurals. It won't work this time either. Recruitment was a nightmare.

Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Has Impact	\$0	\$0	\$0	\$0

City/County: **Washoe County**

Approved by: Liane Lee, Government Affairs Manager

Comment: Main provisions of bill apply to counties with less than 100,000 population, so effect on Washoe County may be limited. However, there are several provisions that might have impact on Washoe County.

Sec. 8 gives the Indigent Defense Commission authority to propose minimum standards (approved by Nevada Supreme Court) regarding indigent provision, including workload. Although the majority of bill applies to counties less than with 100,000, it would be difficult to distinguish workload limits, if approved, in Washoe and Clark County.

Sec. 9 (5) would appear to prohibit flat-fee contracting for indigent defense services. Although the section by its terms applies to counties with less than 100,000, it would likely present issues for Washoe County. Currently Washoe County uses flat-fee billing for a limited number of cases. The new Public Defender's Office conflict policy will significantly limit the number of cases going to Alternate Public Defender and, by extension, to tertiary attorneys. But 9(5) would likely require Washoe County to adopt a tertiary conflict compensation policy more similar to Clark County: attorneys are initially paid a flat-fee, but told case will convert to hourly billing, if matter proceeds to litigation/trial.

Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Cannot Be Determined	\$0	\$0	\$0	\$0

City/County: **White Pine County**

Approved by: Elizabeth Frances, Finance Director

Comment: In looking at this, the cost analysis being requested from the County has to include both the cost of the State Public Defender and the cost for Conflict Counsel. Under the Public Defender arrangement the County has established for FY2016 the cost for conflict counsel was mitigated based on our Public Defender Contract. If we go back to paying the State what we did in FY2014, then conflict counsel services will go back up as the State Public Defender does not have an adequate method to provide for conflicts. This will result in adverse impact on the County in the form of higher expense.

Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Has Impact	\$0	\$7,521	\$7,750	\$16,200

The following counties did not provide a response: Douglas County, Elko County, Eureka County, Esmeralda County, Lander County, Lincoln County, Lyon County, Mineral County, Pershing County, Nye County, and Storey County.