

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4171-01
Bill No.: SB 786
Subject: Civil Procedure; Civil Rights; Courts
Type: Original
Date: February 3, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor, Office of Administration – Administrative Hearing Commission,** and the **Department of Labor and Industrial Relations** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any additional costs incurred in discovery can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation provides that certain individuals and entities that disseminate information to the public by print, broadcast, cable, satellite, mechanical, photographic, electronic, or other means shall not be required to disclose, in any state or federal proceeding, the source of any information. Such persons and entities also shall not be required to disclose any unpublished or non-broadcast information obtained or prepared in gathering, receiving, or processing of information for any medium of public communication as described in this proposal.

The person or entity seeking the information may move the circuit court in the county where the proceeding is located for an order to require a person claiming the privilege to disclose the information sought. The motion shall include the name of the person claiming the privilege, the entity with which he or she was connected at the time he or she obtained the information, the specific information sought and its relevancy to the proceeding, and the necessity of disclosure of the information. In cases involving allegations of libel or slander, the motion shall also contain a prima facie showing of falsity of the alleged defamation, and actual harm or injury that resulted therefrom.

The court, in granting or denying divestiture of the privilege, shall consider the nature of the proceedings, the merits of the claim or defense, the adequacy of any remedy otherwise available, if any, the possibility of establishing by other means that which it is alleged the source or information will tend to prove, and the relevancy of the source or information to the proceeding.

The court may only grant divestiture of the privilege if it finds that:

1. The information sought does not involve matters or details necessary in any proceeding that are required to be kept secret under federal or state law; and that all other available sources of information have been exhausted;

ASSUMPTION (continued)

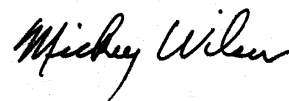
2. Disclosure of the information is essential to the protection of the public interest involved in the proceedings; and
3. In libel or slander cases, the movant's need for disclosure of the information sought outweighs the public interest in protecting the confidentiality of sources and information used by a reported as part of the news-gathering process under the particular facts and circumstances of each particular case.

If the court orders divestiture of the privilege, it shall order disclosure of the information, subject to any protective conditions it deems necessary or appropriate. The privilege shall remain in effect during the pendency of any appeal.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of the Governor
Office of Administration
– Administrative Hearing Commission
Office of State Courts Administrator
Department of Labor and Industrial Relations



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Director
February 3, 2006