

SENATOR ELMER: Yes, and if the county government passed an ordinance that was mandated by a state body, then the state body would be the liable person. If a local government passes an ordinance or some such as that, that is mandated by or they are required to pass that, then the original requirement...the body that originally required that the subdivision pass that would be the entity to pay the defense costs.

SENATOR DIERKS: Is there a fund someplace in the state that takes care of these charges?

SENATOR ELMER: It would be done just the same as other state agencies' legal costs are done through deficits that are presented through committees in our body.

SENATOR DIERKS: There is no fiscal note with this. Do you have any idea what...there is no way you can predict what costs would be then, can you?

SENATOR ELMER: No way at all. I would assume that this would come into play only rarely since it is only criminal and it is only if the law or regulation under which they are prosecuted is found unconstitutional.

SENATOR DIERKS: Okay, thank you very much. I'd be glad to give the time back to Senator Landis.

SPEAKER BAACK: Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature, I rise to support the measure, first, because I think the admonition Senator Kristensen gave us in his speech is not only appropriately raised on his part, but appropriately borne on our part. We should feel a sense of responsibility about what we do. All too often in the 12 years I've been here, I've heard, at least informally under the eaves, that discussion that says, well, I don't know if it is unconstitutional or not, but we'll let the courts decide and we'll push it onto them to make the unpopular decision as if maintaining a constitutional body of law was not our first and foremost obligation but one that we are willing to shunt to another branch of government. We should bear that responsibility and it should be part of the algebra that goes into passing bills. We should care very much whether or not there is a good chance that the bill is unconstitutional about the time that we try to pass it. Why?