

PREPARED BY: Scott Danigole
 DATE PREPARED: January 23, 2023
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LB 122

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2023-24		FY 2024-25	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$328,450		\$298,000	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$328,450		\$298,000	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 122 amends provisions of the One-Call Notification System Act.

Sections 3 and 4 define and create the Underground Excavation Safety Committee (the committee). Membership and provisions for appointment are established. The committee shall meet not less than quarterly each year. The committee's duties include: reviewing complaints filed with the State Fire Marshal, determining whether any person has committed any violation described in section 76-2325, and determining the appropriate civil penalty, if any, to be assessed for such violations.

Under section 5, the committee may order that a violator take and complete continuing education regarding compliance in addition to, or in lieu of, any civil penalties. Civil penalties shall not be more than \$10,000 in the aggregate. The State Fire Marshal shall adopt and promulgate rules and regulations to carry out the bill's provisions.

The State Fire Marshal estimates the need for 2.0 FTE with related operating and travel expenses (for committee members) to carry out the provisions of LB 122. The staffing would address investigations of any violations found, as well as investigation of all complaints filed with the Fire Marshal. There is no basis to determine the number of complaints that will be received, as this is a new process. For purposes of this fiscal note, the Fire Marshal assumed 200 complaints would be filed.

There is no basis to disagree with the State Fire Marshal estimates.

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2023

LB⁽¹⁾ 122

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ State Fire Marshal

Prepared by: ⁽³⁾ Regina Shields/Deb Hostetler

Date Prepared: ⁽⁴⁾ 1/20/23

Phone: ⁽⁵⁾ 402-471-9477

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>328,450</u>	<u>0</u>	<u>298,000</u>	<u>0</u>
CASH FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FEDERAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
OTHER FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL FUNDS	<u><u>328,450</u></u>	<u><u>0</u></u>	<u><u>298,000</u></u>	<u><u>0</u></u>

Explanation of Estimate:

LB 122 would create the Underground Excavation Safety Committee. The State Fire Marshal Agency will begin investigating any violations found, as well as an investigation of all complaints filed with the Agency. This will be a new process so there is no way to specifically determine the number of complaints that will be received; an estimate of 200 was used -- based on the number of pending complaints at the Attorney General plus the number currently filled each year. One new inspection Deputy FYE is needed to handle this increased workload. The cost for this position (wages, benefits, operating and training) will be \$159,017.

The Committee will consist of four outside members appointed by the Governor. The members are volunteers but are eligible for expense reimbursement. The committee is required to meet quarterly and as needed to process the results of the appeals. It is unknown where the committee members will meet or where they will live. Mileage reimbursement was figured at \$4,192 (\$0.655 per mile at 200 miles times four persons for eight meetings-four regular and four appeals) Based on an estimated case load of 200 complaints it was determined that 25 would be reviewed each quarter; giving approximately two hours for each case the committee will meet for three days at a time and then one additionally day a quarter for the results of the appeals hearings so meals and lodging for the committee members was calculated at \$9,577.

The committee is also charged with issuing a finding of fact statement and conclusions of law for every complaint. There is no administrative help designated for the committee in the bill, so it was assumed this was to be done by SFM personnel. This position will also need to: send notices to all parties; set the hearing dates and times by coordinating all the schedules of the participants; provide administrative support to the committee including generating copies of the investigation reports, organizing an evidence or exhibits, writing up the finding of facts summary and conclusions of law for each complaint; and coordinating special meetings after an administrative hearing and compose the final order based on the final determinations by the Committee. A para-legal position FTE will be added and the cost for this includes salary, benefits, operating, expense reimbursement, and training for a total of \$93,675.

In the event a party wishes to appeal a decision by the committee the parties have a right to a hearing governed by the Administrative Procedures Act. This will require the Agency to contract with a hearing officer to conduct such hearings. It is unknown how many appeals may be sought so it was estimated that one fourth (25) of the total complaints will be appealed. Each hearing was given 2.5 hours and then 2.5 hours for the hearing officer to compile the findings, issue his/her own finding of facts, and issue the advisory opinion to the Committee. The costs for the time of the hearing officer is \$28,125 (25X5X\$225.00 per hour). He/she will also be eligible for mileage and expense reimbursement which was figured at \$3,442. There must also be a stenograph record of these appeals made so the Agency will be contracting with a court reporting service for this function. The costs for this include the time, expenses, and mileage for the reporter at a figure of \$14,067,

for a total cost hearing cost of \$45,634. The costs of these hearings can be included by the Committee in the final order, but it is not required; also, these costs must be paid upfront to acquire the services.

The Agency will also incur operating costs for the additional responsibilities of the Committee Process. These include items such as: paper; ink; envelopes; regular mail costs for notification of certain parties and certified mail costs for other notifications; publication of a hearing notice for the required new regulations; rental of meetings rooms, purchase of a recording device, the development of new forms to be used in the investigation process; and the electronic storing of all records and proceedings until the conclusion of the issue and/or the document retention policy expiration period. The total for these costs was determined to be \$30,123.

Projections for Fiscal year 24-25 include updates to salary and benefits for FTE positions and a five percent increase in Operating costs, excluding travel. The possible change in travel cost is unknown.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Fire Marshal Deputy	1	1	51,700	55,577
Paralegal I	1	1	47,184	50,712
Benefits.....			69,458	73,251
Operating.....			115,288	73,640
Travel.....			44,820	44,820
Capital outlay.....			0	0
Aid.....			0	0
Capital improvements.....			0	0
TOTAL.....			328,450	298,000