

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 47** SLS 16RS 248
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 1, 2016 9:24 AM **Author:** LAMBERT
Dept./Agy.: Attorney General **Analyst:** Matthew LaBruyere
Subject: Legal Representation of Deputy Constables

ATTORNEY GENERAL EN SEE FISC NOTE GF EX See Note Page 1 of 2
 Provides that it is the legal duty of the attorney general to represent deputy constables. (8/1/16)

Present law requires the attorney general (AG) provide legal representation to a justice of the peace or constable for claims arising out of the discharge of his duties, within the scope of his office, and not resulting from an intentional wrongful act or gross negligence. Proposed law adds deputy constables to the offices to be represented under these circumstances. Present law provides that justices of the peace and constables must provide a copy of any pleading they are served to the AG within five days of service. Proposed law places this requirement on deputy constables. Present law allows the AG to decline representation if he determines the defendant was not acting in the discharge of his duties, within the scope of his office, or the act was intentional or grossly negligent. Present law further provides the decision to decline representation to a justice of the peace or constable and all information obtained in the AG's investigation is confidential and inadmissible as evidence. Proposed law provides the AG may decline representation of a deputy constable for the same reasons. Proposed law provides that the AG may decline representation if the deputy constable is not in compliance of current law (**CONTINUED ON PG. 2**)

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

The proposed legislation may result in an increase in state general fund expenditures as a result of the Attorney General providing legal representation to deputy constables. The exact increase is indeterminable since it is unknown how many claims, demands or suits will be filed against deputy constables while fulfilling their duties. Based on current caseloads, the Legislative Fiscal Office believes the potential workload increase can be handled with current resources and personnel. However, to the extent the number of cases increases above the average, then the AG's Office will need an additional attorney to handle the workload increase.

Currently, the AG's Office has one attorney that represents justices of the peace and constables. Statewide there are 387 justices of the peace and 388 constables. The AG's Office has indicated that on average there is 1 case against a constable per year (0.3% of constables) and between 2 to 5 cases against justices of the peace per year (1.3% of justices of the peace). The AG has noted that there are already two cases filed against constables this year. The addition of deputy constables for legal representation by the AG may result in additional cases for the AG's Office. There are 29 constables in the parishes of Union, Caddo, Ascension, Calcasieu, St. Martin and Caldwell that can each appoint 1 deputy constable. There are 14 constables in East Baton Rouge and Jefferson parishes that can appoint as many deputy constables as necessary. According to oath of office documents filed with the AG's office, there are currently 29 deputy constables statewide. This includes 10 deputy constables in East Baton Rouge Parish, 10 deputy constables in Jefferson Parish and 9 in the other 6 parishes. The addition of deputy constables would result in a 4% increase to the total number of justices of the peace and constables that the AG would represent.

Based on information provided by the AG's Office, the salary and related benefits for 1 attorney is \$98,393 (\$65,000 salary + \$33,393 related benefits). Operating expenses which include travel, supplies and operating services is \$18,150 and acquisitions total \$7,600. The total cost of 1 attorney is \$124,143 in the first year and an annual cost of \$116,543. To the extent a secretary is also needed, the first year cost would be \$72,707 (\$56,857 salary and benefits + \$10,950 operating expenses + \$4,900 acquisitions) and a recurring annual cost of \$67,807. The first year cost to add an attorney and secretary would be \$196,850 and the recurring annual cost would be \$184,350.

REVENUE EXPLANATION

The proposed legislation may result in an increase in self-generated revenue as a result of deputy constables reimbursing the Attorney General's Office if the court determines the deputy constable was not acting in the discharge of his duties and within the scope of his office at the time of the alleged act. The exact increase is indeterminable since it is unknown how many deputy constables will have to reimburse the department and how much the department would expend while defending deputy constables.

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|---|--|--------------|
| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} | |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | |

Evan Brasseaux
Evan Brasseaux
Staff Director

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CONTINUED EXPLANATION from page one:

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LEGISLATION EXPLANATION CONTINUED ON PAGE 2:

regarding the authorization of deputy constables. Proposed law requires that deputy constables reimburse the AG's office for expenses if the court determines the deputy constable was not acting in the discharge of his duties and within the scope of his office at the time of the alleged act or omission, or that he was acting in an intentionally wrongful manner or was grossly negligent. Proposed law shall only apply to deputy constables serving on or before August 1, 2016. Effective August 1, 2016.

Senate Dual Referral Rules House

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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