

Department of Planning and Budget

2015 Fiscal Impact Statement

1. Bill Number: SB1059 ER

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|------------------------|---------------------------------------|-------------------------------------|--|
| House of Origin | <input type="checkbox"/> Introduced | <input type="checkbox"/> Substitute | <input type="checkbox"/> Engrossed |
| Second House | <input type="checkbox"/> In Committee | <input type="checkbox"/> Substitute | <input checked="" type="checkbox"/> Enrolled |

2. Patron: Obenshain

3. Committee: Passed both Houses

4. Title: Office of the Attorney General; employment of special counsel.

5. Summary: Office of the Attorney General; employment of special counsel. Provides that when entering into a contract with special counsel, the Office of the Governor or Office of the Attorney General, as applicable, must make a copy of the contract available to the public on the website of the Governor or the Attorney General. The bill also provides that prior to entering into a contract with special counsel, the Office of the Attorney General must make a written determination that the representation is both cost effective and in the public interest. In addition, the bill (i) requires the Governor and the Attorney General shall submit an annual report to the General Assembly describing the use of contracts for special counsel, (ii) provides that the Attorney General, or counsel to the Governor in cases in which the Attorney General has a conflict, shall retain control over special counsel, and (iii) limits the contingency fee that may be charged by special counsel depending on the amount recovered.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Final. Indeterminate, See Item 8

8. Fiscal Implications: This bill proposes that the Office of the Attorney General (OAG) manage all contractual undertakings with regards to the employment of special counsel. Also, it requires that copies of applicable contracts be made available on the website of the Governor or the Attorney General, and annual reports be submitted to the General Assembly.

The OAG would administratively supervise (i.e. review, monitor, approve) all aspects of matter in the hands of special counsel. As an additional function for the OAG, attorneys and support staff would need to be hired to oversee/participate in the required aspects of matters/cases. The OAG indicates that hiring needed legal staff could cost between \$2 million and \$5 million. The staff hired would need to be subject matter experts to be able to handle the referred matters to special counsel. Currently the OAG lacks subject matter attorneys within certain legal areas, thus the utilization of special counsel. The cost of additional Finance or Administration staff could be upwards of \$250,000 to \$300,000. Additionally, travel costs to ensure proper monitoring of matters would be incurred.

Estimated costs of this bill are indeterminate as they are dependent on the number of staff needed to handle the volume of contracts and correspondence relating to those contracts.

9. Specific Agency or Political Subdivisions Affected: Office of the Attorney General

10. Technical Amendment Necessary: No

11. Other Comments:

Date: 3/6/15

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