



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill #	HB0434	Title:	Revise DUI penalty laws
Primary Sponsor:	Woods, Tom	Status:	As Introduced

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input checked="" type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
Expenditures:				
General Fund	\$246,000	\$246,000	\$249,690	\$253,435
State Special Revenue	\$4,453,500	\$4,453,500	\$4,453,500	\$4,453,500
Revenue:				
General Fund	\$600,630	\$600,630	\$600,630	\$600,630
State Special Revenue	\$4,453,500	\$4,453,500	\$4,453,500	\$4,453,500
Net Impact-General Fund Balance:	\$354,630	\$354,630	\$350,940	\$347,195

Description of fiscal impact: Passage of HB 434 would result in a positive impact to the general fund from increased fine revenue for July 1, 2013 through September 30, 2019. This bill would increase funding available to county drinking and driving prevention programs. The Office of the State Public Defender (OPD) has the statutory obligation to represent individuals charged with a crime who cannot afford to hire counsel. This would increase the number of cases going to trial which will increase the number of attorney work hours required in defense of each case.

FISCAL ANALYSIS

Assumptions:

Department of Justice (DOJ)

Montana Highway Patrol (MHP)

1. Under current law, fines assessed under 61-8-401 and 61-8-406, MCA, are deposited one-half into the state general fund and one-half to the county general fund in which the fine is assessed.
2. Currently, the minimum fines under 61-8-401 and 61-8-406, MCA, are \$300 for the 1st offense, \$600 for the 2nd offense, and \$1,000 for the 3rd, 4th, and aggravated DUI subsequent offense(s).
3. HB 434 increases the minimum fines to \$5,000 for the 1st, 2nd, 3rd, 4th, and aggravated DUI offense(s).

4. During 2012, the total number of citations issued by the Montana Highway Patrol (MHP) was 1,996: 1,306 1st offenses, 240 2nd offenses, 77 3rd offenses, 144 4th offenses, and 229 aggravated DUIs.
5. At \$5,000, the annual fines are estimated to increase to \$9,980,000. Half of these funds (\$4,990,000) would go to the County Drinking and Driving Prevention Program Account.
6. The remaining half of the funds (see technical note #1) are assumed to go half to the state general fund and half to the county general fund. Of the remaining fine revenue of \$2,500, the net fine increase over current law would be \$2,200 for the 1st, \$1,900 for the 2nd, and \$1,500 for the 3rd, 4th, and aggravated DUI and offense(s).
7. In accordance with assumption #6, the net increase would be $\{(1,306 \text{ 1}^{\text{st}} \text{ offenses} * 2,200 = \$2,873,200, 240 \text{ 2}^{\text{nd}} \text{ offenses} * \$1,900 = \$456,000, \text{ and } [77 \text{ 3}^{\text{rd}} \text{ offenses} + 144 \text{ 4}^{\text{th}} \text{ offenses} + 229 \text{ Aggravated DUI}] * \$1,500 = \$675,000) = \$4,004,200\}$.
8. Using FY 2012 revenues collected, the MHP anticipates that 30% of fines assessed will actually be collected.
9. Based on the above assumptions, the anticipated increase to the County Drinking and Driving Prevention Program Account is \$1,497,000 ($\$4,990,000 * 30\%$). The anticipated increase to the both the state general fund and the county general fund is \$600,630. ($\$4,004,200 * \frac{1}{2} * 30\% = \$600,630$).
10. MHP is unable to estimate the amount of prisoner per diem costs it would be required to pay to the counties.

Office of the Public Defender (OPD)

11. It has been OPD's experience when penalties are increased the number of cases that go to trial increase as well.
12. The number of cases of Driving a Motor Vehicle While Under the Influence of Alcohol or Drugs (DUI) cases received by OPD in FY 2012 was approximately 4,097 under the following statutes: 61-8-401, 61-8-401(1)(a), 61-8-406(1)(a), 61-8-406(1)(b), and 61-8-465, MCA.
13. Under the new law, OPD management estimates that an additional 10% of those 4,097 cases or approximately 410 cases will go to trial.
14. Under OPD's case weight system, the attorney time involved when a jury trial occurs in these types of cases is approximately 10 additional hours.
15. The number of cases (410) times the hourly rate of \$60 per hour times the average number of additional hours spent on these cases or 10 hours totals \$246,000.
16. There is a 1.5% inflation factor applied to FY 2016 and FY 2017.

Department of Transportation (DoT)

17. In 2012, there were 5,939 citations within the scope of HB 434. This count is inclusive of the MHP citations described above. Therefore, non-MHP issued citations would be 3,943.
18. HB 434 provides that half of the fines be deposited in the County Drinking and Driving Prevention Program Account at the DoT. The remaining half of the fines would be deposited in the county general fund.
19. If the remaining 3,943 citations were issued in the same distribution as the citations issued by the MHP and described in assumption #4, total increased fines would be \$19,710,000. Half of this amount, \$9,855,000, would be distributed to the County Drinking and Driving Prevention Program Account and the same amount would be distributed to county general fund.
20. Applying the same assumption for collectability from assumption #8 to assumption #19, actual revenues for the County Drinking and Driving Prevention Program Account would be \$2,956,500. Revenues to the counties, net of previous fine collections, would be \$2,372,500.
21. The DoT would administer these funds as grants to local governments.

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Operating Expenses - OPD	\$246,000	\$246,000	\$249,690	\$253,435
Grants - DoT	\$4,453,500	\$4,453,500	\$4,453,500	\$4,453,500
<u>Funding of Expenditures:</u>				
General Fund (01)	\$246,000	\$246,000	\$249,690	\$253,435
State Special Revenue (02)	\$4,453,500	\$4,453,500	\$4,453,500	\$4,453,500
TOTAL Funding of Exp.	\$4,699,500	\$4,699,500	\$4,703,190	\$4,706,935
<u>Revenues:</u>				
General Fund (01)	\$600,630	\$600,630	\$600,630	\$600,630
State Special Revenue (02)	\$4,453,500	\$4,453,500	\$4,453,500	\$4,453,500
TOTAL Revenues	\$5,054,130	\$5,054,130	\$5,054,130	\$5,054,130
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$354,630	\$354,630	\$350,940	\$347,195
State Special Revenue (02)	\$0	\$0	\$0	\$0

Effect on County or Other Local Revenues or Expenditures:

1. This bill would increase county revenue as described in the assumptions above. The estimated revenue to the counties would be approximately \$2,973,130.
2. County drinking and driving task forces would also receive nearly \$4.5 million in grant funds from the state.
3. Due to the significant increase in the fine owed for these offenses, this may cause financial hardship to individuals that would have no choice but to serve jail time rather than pay the fine. This could cause increased costs to county jails.

Technical Notes:

1. In Section 4 of the bill, the distribution of the remaining funds after 50% is distributed to the County Drinking and Driving Prevention Program Account is not clear.

Sponsor's Initials

Date

Budget Director's Initials

Date

17-1-507-509, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**
Yes. Funds generated by these fines and reinstatement fees will be used to fund county drinking and driving programs.
- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund? This fund is provided in this bill.**
- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**
Yes
- d) **Does the need for this state special revenue provision still exist? Yes No (Explain)**
- e) **Does the dedicated revenue affect the legislature’s ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**
The monies in this fund would need to be appropriated by the legislature.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**
Yes
- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**
It allows the funds to be segregated and specifically tracked for the intended purpose.