EXHIBIT 12
DATE 2/20/15
HB 463

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	HB0463	Title:	Revise laws related to asset forfeiture
Primary Sponsor:	McCarthy, Kelly	Status:	As Introduced

☐ Significant Local Gov Impact ☑ Needs to be included in HB 2 ☐ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Expenditures:				
General Fund	$79,400	$79,400	$80,591	$81,800
State Special Revenue	($50,000)	($50,000)	($50,750)	($51,511)
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	($50,000)	($50,000)	($50,750)	($51,511)
Net Impact-General Fund Balance:	($79,400)	($79,400)	($80,591)	($81,800)

Description of fiscal impact: HB 463 will eliminate the process of a "civil" forfeiture of property seized related to illegal drug crimes, and would replace it with a process that would first require a criminal conviction of the property owner prior to a forfeiture proceeding.

FISCAL ANALYSIS

Assumptions:

Department of Justice

1. Criminal convictions commonly take from 8-12 months to complete. During that period of time the Department of Justice (DOJ) would be responsible for the storage fees related to this property. Property deemed by the courts to be returned to the owner and not forfeited to the seizing agency is required to be returned to the owner in the same condition as when it was seized, and if not then the seizing agency is responsible to pay that difference. The department estimates approximately $14,400 per year in additional costs in storage costs (average of 12 vehicles at $100 per month= $14,400).
2. Since criminal convictions will require property forfeiture, this will require additional court hearings and trials and associated travel costs. With the additional travel to various locations throughout the state for multiple court appearances and pre-trial meetings it is estimated to increase travel expenses (lodging, fuel, per diem) by $15,000 per year.

3. The final outcome and sharing of the forfeited funds is up to the discretion of a judge who can order forfeited funds to other parties who have not had access to these funds in the past (i.e. defense attorneys, family members or other "holders of property interests"). It is possible that the DOJ could see a significant reduction in the amount of the funds that are deposited into the state drug forfeiture funds. For purposes of this fiscal note, the DOJ expects a 50% reduction ($50,000 decrease per year) in state special revenue currently being used to fund departmental operations. These expenditures are assumed to be made up with general fund.
4. All expenditures are inflated at 1.5% in FY 2018 and FY 2019.

Judicial Branch

5. Section 3 of HB 463 allows a defendant or person with an interest in property subject to forfeiture to request a pretrial hearing to determine the validity of a property seizure. The hearing is given a priority over other district court proceedings and is required to be held no later than 30 days after the hearing request is filed.
6. Section 4 of HB 463 requires a hearing after conviction to determine whether the property must be forfeited; however, this hearing may be combined with the proceeding for the criminal offense that provides for the property forfeiture.
7. The number of district court cases and hearings may increase as a result of this legislation; however, the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources because court dockets currently are full in many judicial districts throughout the state.

Office of the State Public Defender

8. 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, represent individuals on direct appeal and also to provide counsel if there is a conflict of interest. This bill may increase the number of pretrial hearings in some of these cases but it may also result in a slight decrease in the number of cases because the client would not be eligible for public defender services if the property is returned.

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Fiscal Impact:				
FTE	0.00	0.00	0.00	0.00
Expenditures:				
Operating Expenses	$29,400	$29,400	$29,841	$30,289
TOTAL Expenditures	$29,400	$29,400	$29,841	$30,289
Funding of Expenditures:				
General Fund (01)	$79,400	$79,400	$80,591	$81,800
State Special Revenue (02)	($50,000)	($50,000)	($50,750)	($51,511)
TOTAL Funding of Exp.	$29,400	$29,400	$29,841	$30,289
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($50,000)	($50,000)	($50,750)	($51,511)
TOTAL Revenues	($50,000)	($50,000)	($50,750)	($51,511)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($79,400)	($79,400)	($80,591)	($81,800)
State Special Revenue (02)	$0	$0	$0	$0

Sponsor's Initials *Date* *Budget Director's Initials* 2/18/15 *Date*