



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0537

Title: Revise venue laws

Primary Sponsor: Mercer, Bill

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

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	\$11,660	\$11,660	\$11,660	\$11,660
State Special Revenue	\$24,268	\$24,268	\$24,268	\$24,628
Other	\$716	\$716	\$716	\$716
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$11,660)</u>	<u>(\$11,660)</u>	<u>(\$11,660)</u>	<u>(\$11,660)</u>

Description of fiscal impact: HB 537 changes the venue for judicial review of cases from the first judicial district in Lewis and Clark County to the judicial district in which the violation occurs or in which the appealing party resides. Fiscal impact is based on potential expenses incurred as a result of state legal staff and other staff travel costs.

FISCAL ANALYSIS

Assumptions:

Commissioner of Political Practices

- Section 13-37-113, MCA, currently requires all prosecutions for violations of Title 13, Chapters 35 and 37 to be brought either in the district court for the county in which the violation has occurred or in the district court for Lewis and Clark County.
- HB 537 eliminates the provision that allows a prosecution to be brought in the district court for Lewis and Clark County regardless of the county in which the violation occurred.

3. The number of sufficiency decisions issued by COPP in a year and the number of any resulting prosecution and defense actions in district court are both highly variable. In addition, the counties where violations occur are likely to be geographically diverse. In 2020, COPP issued 31 sufficiency decisions, not all of which necessitated action in district court.
4. Given the variability of the number of sufficiency decisions that are not settled out of court and that result in a prosecution or defense action, COPP is only able to provide a rough estimate of the extent of staff travel that may be required if HB 537 becomes law.
5. The estimated fiscal impact of HB 537 is based on the possibility of 20 sufficiency decisions that are not settled out of court and that result in a prosecution or defense action in district court. This estimate calculates the costs of three people traveling 20 times per year.
6. Travel costs incurred by the agency include per diem, lodging, and mileage paid to the State Motor Pool.
7. The per diem allowance provided in 2-18-501(1), MCA, equals \$30.50 per person per day. Total per diem paid to three people for two days would equal \$183. Per diem for 20 trips would equal \$3,660.
8. Lodging reimbursement as provided by 2-18-501(1), MCA, equals \$96 per person per night. Lodging for three people for one night would total \$288. Lodging for 20 trips would total \$5,760.
9. The Motor Pool rental rate for a sedan is \$1.408 per hour and \$0.183 per mile. COPP is estimating mileage for out-of-town travel to courts in counties where violations have occurred by calculating the average of mileage from Helena to Wibaux, which is 446 miles, and from Helena to Townsend, which is 34 miles. Using this calculation, the COPP estimates mileage for a single trip to equal 245 miles one way and 490 miles round trip. Reimbursement due to the Motor Pool would total \$112 per trip and \$2,240 for 20 trips.
10. With a per diem total for 20 trips equal to \$3,660, a lodging total for 20 trips equal to \$5,760, and vehicle rental reimbursement owed to the Motor Pool for 20 trips equal to \$2,240, the total potential fiscal impact to the agency in any given fiscal year may be \$11,660.

Department of Environmental Quality

11. If the Department of Environmental Quality (DEQ) cannot bring an action in Lewis and Clark County, it would need to pay for the travel costs associated with various personnel. Travel costs include mileage, hotel, and per diem per person.
12. For court proceedings DEQ would need to pay for the travel costs for at least one DEQ attorney, and one witness. Based on current caseload, the DEQ will be involved in approximately eight court proceedings each year.
13. For Board of Environmental Review (BER) hearings that have been assigned to a BER hearing examiner: DEQ would need to pay for the travel costs for at least one DEQ attorney, one witness, and one hearing examiner. It would also need to rent a room in which to hold the hearing, and possibly rent A/V equipment. Based on current caseload, DEQ will be involved in approximately 11 BER proceedings each year (including BER contested case hearings, appeals of permits, and enforcement cases).
14. For BER hearings that have not been assigned to a BER hearing examiner: DEQ would need to pay for the travel costs for at least one DEQ attorney, one witness, all seven members of the Board of Environmental Review (BER), and the BER Attorney. It would also need to rent a room in which to hold the hearing, and possibly rent A/V equipment. Based on current caseload, DEQ will be involved in approximately one such BER proceeding each year.
15. Three days of travel will be required for each hearing outside of Lewis and Clark County. Hotel rental rates are assumed to be within the allowable state rate, personnel will carpool in a Motor Pool leased vehicle, and the average conference room cost, including audio/video equipment, is assumed to be \$200 per hearing.
16. The estimated travel costs for the department are \$23,146 in FY 2024 and FY 2025.

Department of Administration

17. It is estimated that the DOA Division of Banking and Financial Institutions will travel to two district court hearings per fiscal year. The division venue statutes are in Titles 31 and 32 included in HB 537.
18. These hearings will involve an estimated three state employees travelling: two witnesses and one attorney.

19. The total travel expenditures for two trips with three people traveling are estimated to be \$1,122 per fiscal year.

20. The costs could vary depending on the number of district court hearings DOA travels to within a given year.

Department of Public Health and Human Services

21. DPHHS may have cases that go past the fair hearings stage and end up in district court. To the extent these cases are shifted away from Lewis and Clark county, there may be increased travel costs. Cases of this type are rare, and travel costs could be absorbed within existing resources.

Montana Public Employee Retirement Administration (MPERA)

22. MPERA will have one judicial review case per year outside of Lewis and Clark County.

23. Two MPERA staff members would participate in the judicial review and will be in travel status for approximately one day.

24. Estimated travel costs would be \$358.

Montana Teachers Retirement System (TRS)

25. TRS will have one judicial review case per year outside of Lewis and Clark County.

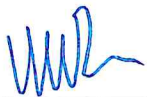
26. Two TRS staff members participate in the judicial review and will be in travel status for one day.

27. Estimated travel costs would be \$358.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$36,644	\$36,644	\$36,644	\$36,644
TOTAL Expenditures	<u>\$36,644</u>	<u>\$36,644</u>	<u>\$36,644</u>	<u>\$36,644</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$11,660	\$11,660	\$11,660	\$11,660
State Special Revenue (02)	\$24,268	\$24,268	\$24,268	\$24,268
Other	\$716	\$716	\$716	\$716
TOTAL Funding of Exp.	<u>\$36,644</u>	<u>\$36,644</u>	<u>\$36,644</u>	<u>\$36,644</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$11,660)	(\$11,660)	(\$11,660)	(\$11,660)
State Special Revenue (02)	(\$24,268)	(\$24,268)	(\$24,268)	(\$24,268)



Sponsor's Initials

3/1/21

Date



Budget Director's Initials

3/1/21

Date