

HF635 - 0 - Prohibiting Intimidation of Election Officials

Chief Author: **Emma Greenman**
 Committee: **Elections Finance & Policy**
 Date Completed: **2/23/2023 3:39:43 PM**
 Lead Agency: **Attorney General**
 Other Agencies:
 Secretary of State

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Attorney General						
General Fund	-	200	200	200	200	200
State Total						
General Fund	-	200	200	200	200	200
Total	-	200	200	200	200	200
Biennial Total			400			400

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Attorney General					
General Fund	-	1	1	1	1
Total	-	1	1	1	1

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 2/23/2023 3:39:43 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Attorney General						
General Fund	-	200	200	200	200	200
Total	-	200	200	200	200	200
	Biennial Total		400		400	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Attorney General						
General Fund	-	200	200	200	200	200
Total	-	200	200	200	200	200
	Biennial Total		400		400	
2 - Revenues, Transfers In*						
Attorney General						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-		-	

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 Agency: **Attorney General**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	200	200	200	200
Total	-	200	200	200	200
Biennial Total			400		400

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1	1	1	1
Total	-	1	1	1	1

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 2/23/2023 3:38:55 PM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	200	200	200	200	200
Total	-	200	200	200	200	200
Biennial Total			400			400
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	200	200	200	200	200
Total	-	200	200	200	200	200
Biennial Total			400			400
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

In addition to creating criminal remedies and a private right of action for injured election officials, the law gives the attorney general authority to bring a civil action to prevent or restrain a violation of the act; to recover damages, investigative costs, and attorney fees; and to recover other equitable relief as necessary.

Section 1 amends Minn. Stat. § 8.31 to give the Attorney General enforcement authority over a new law, Minn. Stat. § 211B.076, created in section 4.

Section 4 creates Minn. Stat. § 211B.076, which prohibits a variety of conduct toward election officials, including: (1) intimidating an election official with the intent to influence the official in performing the official’s election-administration duties; (2) intentionally interfering with or preventing an election official from performing an election-administration duty; (3) disseminating personal information about an election official in circumstances that create an imminent and serious threat to the safety of the official or the official’s family; (4) obstructing an election official’s access to or egress from a polling place, canvassing-board meeting, or other place where election officials perform official duties or store ballots and elections equipment; (5) tampering with voting equipment; (6) tampering with ballot boxes; (7) tampering with the statewide voter registration system, registration list, or polling place roster; (8) unauthorized access to the statewide voter registration system; and (9) aiding and abetting or conspiring to commit any of these violations.

Assumptions

For this legislation, the AGO anticipates .5 FTE attorneys at a cost of \$122,250 and .5 legal assistants at a cost of \$77,250 devoted to this work.

The AGO largely operates as a law firm, and the very nature of litigation is not easily predicted. This bill creates new authority for the AGO to bring a civil action to enforce new prohibitions of conduct toward election officials. The AGO has not traditionally been involved in this work, so there is no past history to review in terms of incidents or complaints, nor is there a comparable equivalent.

We can assume that work would be somewhat cyclical and primarily increase during even-numbered years, although the law is not limited to general elections and violations of the law could arise in special elections and in odd-numbered years. Depending on the nature of the violation, investigations and pursuing violations under the law would likely continue

postelection. The AGO anticipates infrequent and irregular enforcement efforts to be necessary under the authority given in the proposed law. The authority provided under section 8.31 can relate to conduct during either voter registration or an election of any kind and could lead to investigations or enforcement at any time. Based on the assumptions that investigations and enforcement will primarily coincide with two-year and four-year election cycles for statewide and federal elections, the AGO anticipates that, at least once every two years it would form an “elections team” of investigators and attorneys to respond to complaints regarding the conduct regulated by this bill and to take necessary investigatory and enforcement action.

Our revenue formula is based on billing rates effective July 1, 2024-June 30, 2025. Explanation of billing rates: the Office is statutorily required to bill agencies for the full cost of providing legal services for nongeneral funded activities. That is, when the Office does not receive general fund dollars for legal work performed for an agency, it charges the agency for those costs.

Based on this background, when accounting for the full cost of legal services that will be required by the legislation, the Office uses the billing rate it charges to partner agencies, as it is reflective of the cost of providing the legal services.

1 FTE Attorney averages 1,500 billable hours in one year at a rate of \$163.00/hour.

1 FTE Legal Assistant (including investigators, paralegals, mediators, financial analysts and support staff) averages 1,500 billable hours in one year at a rate of \$103.00/hour.

Expenditure and/or Revenue Formula

The Office of the Attorney General uses billing rates to calculate revenue and costs. The billing rates effective from July 1, 2024-June 30, 2025 are \$163/hour for attorneys and \$103/hour for legal assistants (including investigators, paralegals, mediators, financial analysts, and support staff). The billable hour rate reflects the cost of providing legal services. One FTE is 1500 billable hours per year.

	Hourly Billing Rate	Hours	Total Cost to AGO
Attorney, [division]	\$163	750	\$122,250
Legal assistant, [Investigator/other non-attorney staff]	\$103	750	\$77,250
<i>Other</i>			
Total	N/A		\$199,500

Long-Term Fiscal Considerations

n/a

Local Fiscal Impact

n/a

References/Sources

n/a

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 Committee: **Elections Finance & Policy**
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 Agency: **Secretary of State**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

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	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 2/18/2023 8:29:57 PM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill prohibits various unauthorized activities relating to elections and elections hardware, software and data as well as physical disruption of election processes. It imposes criminal penalties and authorizes civil lawsuits to enforce the law and prevent such unauthorized acts.

The prohibited acts apply to employees of the office of the secretary of state as they would employees of any other election official. Prosecution would be the responsibility of the attorney general.

The bill authorizes the secretary of state to take two actions related to unauthorized uses, specifically:

Section 3 of the bill allows the secretary of state to specifically authorize the creation of an electronic image of a tabulating system or an image of other voting system components.

Section 4, subdivision 6 of the bill requires the secretary of state to immediately revoke the access to the statewide voter registration system of any person found to be in violation of the provisions of the subdivision.

Assumptions

The secretary of state already has cybersecurity responsibilities for the statewide voter registration system (SVRS), and so while specific prohibited activities are listed in the bill, those actions are not new to the administration of the SVRS, to which they would apply, and would be integrated into the existing cybersecurity practices of the office. There would be no specific additional expenses related to these two actions.

Expenditure and/or Revenue Formula

None.

Long-Term Fiscal Considerations

None.

Local Fiscal Impact

Local governments have a greater responsibility under this bill, as those jurisdictions actually administer and own the election tabulating equipment, operate the polling places, and have both physical security and cybersecurity responsibilities for the election systems in their jurisdictions. All of these jurisdictions already have physical and cyber

security plans which would already cover aspects of the bill. County attorneys may also have added responsibilities as a result of this bill.

References/Sources

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