

FISCAL NOTE
Requested by Legislative Council
01/18/2007

Bill/Resolution No.: SB 2280

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$10,500	\$0	\$10,500	\$0	\$10,500	\$0
Expenditures	\$0	\$0	\$159,000	\$0	\$165,000	\$0
Appropriations	\$0	\$0	\$159,000	\$0	\$165,000	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill mandates the Secretary of State to conduct a nationwide search of trademark records. Doing the search would have a major fiscal impact on the agency along with creating a potentially significant liability situation for the state.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Lines 6 thru 9 mandate the Secretary of State to conduct a nationwide search of trademark records. It would entail contacting the appropriate registry in each of the 50 states along with the federal government's registry.

Many states charge a records search fee. The Secretary of State's office averages approximately 300 new and renewed trademarks a biennium. We estimate it would cost \$75,000 a biennium to conduct the nationwide searches. In addition, it would require the hiring of one FTE to conduct them.

When the agency's search is completed, the applicant would then be given the results. Apparently, the applicant would then make a decision on whether or not to proceed with the registry of the trademark in North Dakota.

Because the state is conducting the nationwide search, it could encounter a significant liability situation. For example, in the event the applicant's chosen trademark ultimately faces legal challenges, the applicant could claim the state was at fault because the search did not discover the conflict with another trademark. The potential of such a situation would likely result in the agency's contribution to the state's risk management being increased substantially. This additional expense has not been factored into the estimated expenditures or appropriations.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The base fee to register a trademark for ten years is \$30. The estimated revenue listed above is based on 300 new and renewed trademarks a biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The expenditures would cover the fees paid to the applicable registry in other states, the expenses of conducting the searches, and the hiring of one additional FTE to conduct the searches.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The above estimated appropriation is needed to cover the projected expenditures. The agency could not absorb the additional cost in its present budget.

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