

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 27, 2007
POSITION: Oppose unless amended
SPONSOR: Author

BILL NUMBER: SB 241
AUTHOR: S. Kuehl
RELATED BILLS: None Related

BILL SUMMARY: Minors: Legal Representation: Probate Proceedings

This bill would require a county to pay a portion of the costs for minor's appointed private, legal counsel in guardianship proceedings as determined by the court, and would require the Judicial Counsel to adopt the financial eligibility guidelines.

This bill also cross-references the Government Code section authorizing courts to appoint a public defender in guardianship, conservatorship, and other protective proceedings if a person is not financially able to employ counsel.

FISCAL SUMMARY

It is anticipated that the Judicial Council would incur minor, absorbable costs to adopt guidelines to assist courts in making determinations regarding the costs of the parents' or the minor's estate to pay for legal representation in guardianship proceedings.

This bill could create a reimbursable state mandate. The requirement that counties pay a portion of these costs would be imposed by the Legislature while the determination of a parent's or estate of the minor's ability to pay for legal representation would be made by the courts. The potential cost of reimbursement to counties for state-mandated activities is unknown at this time.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 9, 2007 version do not alter our position. The amendments added the standard mandates disclaimer and language cross-referencing the Government Code.

COMMENTS

Department of Finance is opposed to this bill unless it is amended. The bill could create a reimbursable state mandate by requiring counties to pay a portion of legal representation costs in guardianship cases; therefore, Finance opposes this bill unless the attached language is added.

Existing law authorizes courts to appoint legal counsel for minors subject to guardianship proceedings if he or she is not otherwise represented and the appointment would be in the minor's best interest. Existing law requires legal representation costs to be paid by the parents or the minor's estate, in any proportion deemed just by the court. Existing law does not specify which party is responsible for these costs if the parents or the minor's estate cannot compensate for the total costs.

Analyst/Principal Date Program Budget Manager Date
(0961) C. Castaneda Thomas E. Dithridge

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

AMENDMENT DATE

BILL NUMBER

S. Kuehl

June 27, 2007

SB 241

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code	
	LA	(Dollars in Thousands)								
	CO	PROP	2007-2008		2008-2009		2009-2010			
	RV	98	FC	FC	FC	FC				
8885/Comm St Mndt	LA	No	----- See Fiscal Summary -----							0001
0270/Jud Council	SO	No	----- No/Minor Fiscal Impact -----							0001

Suggested Amendments
SB 241 (As amended June 27, 2007)

Delete Section 3, lines 20 through 24 and insert the following after Section 2, line 19:

SEC. 3. (a) In the event of a determination by Commission on State Mandates, or a final judicial determination by a California court of appellate jurisdiction that any provision of this section is a state-mandated local program requiring state reimbursement to a local agency or school district within the meaning of Section 6 of Article XIII B of the California Constitution, the provisions of this act shall be repealed 90 days following the date on which the Commission on State Mandates adopts a statement of decision finding a state mandate, or 90 days following the date on which the first such judicial determination become final.

(b) This section shall not be repealed pursuant to subdivision (e) if the Director of Finance files a written Notice of Intent to Appeal with the Commission on State Mandates within 90 days of the adoption of a statement of decision finding that any of the provisions of this section is a state-mandated local program requiring reimbursement within the meaning of Section 6 of Article XIII B of the California Constitution. The Notice of Intent to Appeal specified by this subdivision shall consist of a written notice setting forth the intention of the Director of Finance to seek judicial review of the decision of the Commission on State Mandates.