

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6610

BILL NUMBER: SB 230

NOTE PREPARED: Dec 22, 2012

BILL AMENDED:

SUBJECT: Applicability of Federal Law in Indiana.

FIRST AUTHOR: Sen. Boots

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that any federal act, order, law, rule, regulation, or statute found by the General Assembly to be inconsistent with the power granted to the federal government in the Constitution of the United States is void in Indiana.

It provides that a resident of Indiana has a cause of action to enjoin the enforcement or implementation or the attempted enforcement or implementation of a federal act, order, law, rule, regulation, or statute declared void by the General Assembly.

The bill provides that a plaintiff who prevails in such an action is entitled to reasonable attorney's fees and costs.

It also provides that a person who knowingly or intentionally implements or enforces, or attempts to implement or enforce, a federal law that is declared void by the General Assembly commits a Class D felony.

The bill finds that the federal Patient Protection and Affordable Care Act and the federal Health Care and Education Reconciliation Act of 2010 are inconsistent with the power granted to the federal government in the Constitution of the United States.

Effective Date: Upon passage.

Explanation of State Expenditures: *Attorney General:* If a party has a cause of action as a result of the findings of the General Assembly, cost for the Attorney General and any involved state agency to defend the

state may increase.

Criminal Penalty: There are no data available to indicate how many offenders may be convicted of a Class D felony for knowingly or intentionally implementing or enforcing, or attempting to implement or enforce a voided federal law. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Federal Program Revenue:* The federal Patient Protection and Affordable Care Act and the federal Health Care and Education Reconciliation Act of 2010 amend several federal programs. Among these programs are the Medicaid, Disproportionate Hospital Share, and the Community Mental Health Center programs and other programs that provide funding to the state budget to pay for health care services. In the past, if a state did not comply with federal program requirements by amending the State Plan for Medicaid or by improperly administering the program, penalties have ensued, including repayment or loss of federal funds or suspension from the program.

Criminal Penalty: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Criminal Penalty:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Criminal Penalty:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction; General Assembly; Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Karen Firestone, 317-234-2106.