

SF754 - 0 - Indemnification Agreements

Chief Author: **Jennifer McEwen**  
 Committee: **Labor**  
 Date Completed: **2/14/2023 9:43:17 AM**  
 Lead Agency: **Administration Dept**  
 Other Agencies:  
     Transportation Dept

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
<b>Transportation Dept</b>						
General Fund	-	34	34	34	34	34
<b>State Total</b>						
General Fund	-	34	34	34	34	34
	<b>Total</b>	<b>-</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>
	<b>Biennial Total</b>		<b>68</b>	<b>68</b>		<b>68</b>

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Transportation Dept</b>					
General Fund	-	-	-	-	-
	<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

**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:** 2/14/2023 9:43:17 AM  
**Phone:** 651-296-6054   **Email:** susan.nelson@lbo.mn.gov

**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.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>	
<b>Dollars in Thousands</b>		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
<b>Transportation Dept</b>						
General Fund	-	34	34	34	34	34
<b>Total</b>	<b>-</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>
	<b>Biennial Total</b>		<b>68</b>		<b>68</b>	
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
Transportation Dept						
General Fund	-	34	34	34	34	34
<b>Total</b>	<b>-</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>
	<b>Biennial Total</b>		<b>68</b>		<b>68</b>	
<b>2 - Revenues, Transfers In*</b>						
Transportation Dept						
General Fund	-	-	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
	<b>Biennial Total</b>		<b>-</b>		<b>-</b>	

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 Agency: **Administration Dept**

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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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
<b>Total</b>	-	-	-	-	-	-

**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:** 2/14/2023 8:46:50 AM  
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**State Cost (Savings) Calculation Details**

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

**Bill Description**

SF754 amends existing statutes to make certain provisions related to indemnification and insurance requirements in public contracts unenforceable.

**Assumptions**

In discussions with stakeholders, there are varied interpretations on the impact of SF754 creating unknown impacts. Admin is not aware of a specific past situation that these revisions would address. To the extent indemnification provisions are unenforceable, the taxpayers of the State will be at risk for increased legal costs on public construction projects. There is not a way to quantify the specific impact given the lack of history or clarity around what these provisions would address; however, at a minimum, legal representation by the Attorney General’s Office and more administrative project manager time at Admin will be required more frequently to respond to litigation or the threat of litigation.

**Expenditure and/or Revenue Formula**

The extent of the potential legal costs and administrative project management time are unknown, given the indefinite nature of litigation or threat of litigation.

**Long-Term Fiscal Considerations**

**Local Fiscal Impact**

Local governments could experience increased legal and administrative costs on construction projects.

**References/Sources**

**Agency Contact:** Wayne Waslaski ph. 651-201-2548

**Agency Fiscal Note Coordinator Signature:** Ify Onyiah

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SF754 - 0 - Indemnification Agreements

Chief Author: **Jennifer McEwen**  
 Committee: **Labor**  
 Date Completed: **2/14/2023 9:43:17 AM**  
 Agency: **Transportation Dept**

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
General Fund	-	34	34	34	34	34
<b>Total</b>	-	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>
<b>Biennial Total</b>			<b>68</b>			<b>68</b>

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

**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:** Laura Cecko      **Date:** 2/14/2023 7:56:25 AM  
**Phone:** 651-284-6543      **Email:** laura.cecko@lbo.mn.gov

**State Cost (Savings) Calculation Details**

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<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	34	34	34	34	34
<b>Total</b>		<b>-</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>
<b>Biennial Total</b>				<b>68</b>		<b>68</b>
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund	-	34	34	34	34	34
<b>Total</b>		<b>-</b>	<b>34</b>	<b>34</b>	<b>34</b>	<b>34</b>
<b>Biennial Total</b>				<b>68</b>		<b>68</b>
<b>2 - Revenues, Transfers In*</b>						
General Fund	-	-	-	-	-	-
<b>Total</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Biennial Total</b>				<b>-</b>		<b>-</b>

**Bill Description**

This bill limits the use of indemnification agreements in public construction contracts to negligent actions, intentional actions, or for strict liability imposed due to environmental regulations. Section 3 dictates that a provision which requires one party in a contract to provide insurance for another party for negligent or intentional actions is void and unenforceable, with some clarifications and exceptions. Section 5 removes “project specific insurance” from the list of exempted insurance requirements in private construction contracts. In private contraction cases, one party is prohibited from requiring another party to provide insurance coverage for the other party’s acts. Sections 1-5 are effective the day after final enactment of the bill.

**Assumptions**

In 2022, MnDOT turned 11 tort cases over to contractors for resolution after determining that MnDOT was not at fault. MnDOT assumes approximately 11 relevant cases per year and 40 attorney hours per case to resolve. This additional staff time comes at a rate of \$50.88 per hour, plus 50% to account for related overhead costs including fringe benefits.

**Expenditure and/or Revenue Formula**

11 cases X 40 hrs X \$76.32 = \$33,580 (rounded to \$34,000)

**Long-Term Fiscal Considerations**

None

**Local Fiscal Impact**

None

**References/Sources**

MnDOT Office of Chief Counsel

**Agency Contact:** Sam Brown

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