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FISCAL IMPACT STATEMENT

LS 6598

BILL NUMBER: SB 134

NOTE PREPARED: Mar 27, 2007

BILL AMENDED: Mar 26, 2007

SUBJECT: Automatic External Defibrillators in Health Clubs.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. Tyler

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Defibrillator Tax Credit:* The bill provides a tax credit, until December 31, 2009, for a health club that purchases an automated external defibrillator.

Defibrillator Requirement: The bill requires that before July 1, 2008 the owner or operator of a health club: (1) have a defibrillator available on the health club premises; (2) employ at least one individual who is trained to use the defibrillator; (3) have a trained employee on the health club premises during business hours; (4) post a sign indicating the location of the defibrillator; and (5) comply with other defibrillator requirements. It provides that a person who violates the health club defibrillator requirements commits a Class C infraction. It allows inspection of a health club to determine compliance. It also provides certain immunity from liability for acts or omissions involving defibrillators in health clubs.

Effective Date: (Amended) January 1, 2007 (retroactive); July 1, 2007.

Explanation of State Expenditures: (Revised) *Defibrillator Tax Credit:* The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new tax credit for costs incurred by a health club to purchase a defibrillator. The DOR's current level of resources should be sufficient to implement this change.

Rule Making: The State Department of Health may adopt rules to implement the requirements. However, the costs are expected to be minimal.

Health Club Inspections: The bill authorizes the State Department of Health and the Division of Fire and Building Safety to inspect a health club at any time: (1) according to rules adopting by the State Department

of Health; or (2) in response to a filed complaint alleging noncompliance with the health club defibrillator requirements.

Explanation of State Revenues: (Revised) *Defibrillator Tax Credit:* The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of an individual or corporate taxpayer who places into service in a health club a defibrillator under the health club defibrillator requirements established by the bill. The credit would equal the purchase price of each defibrillator the taxpayer places into service in tax year 2007, 2008, or 2009. It is estimated that approximately 600 health clubs could be operating at the present time in Indiana. It is unknown what proportion of this total meet the operational parameters (specified in the bill) that trigger the defibrillator requirement. Based on a price range of \$750 to \$2,250, and assuming tax credits are claimed for placing one defibrillator into service in each of the 600 health clubs cited above, the fiscal impact of the tax credit could potentially range from \$450,000 to \$1.35 M during the three-year period the tax credit is applicable. There are two caveats to this estimate:

(1) The fiscal impact could potentially be lower to the extent that some of the estimated 600 health clubs don't meet the operational parameters in the bill that trigger the defibrillator mandate. Health club data does not provide such operational detail.

(2) The fiscal impact could potentially be higher to the extent that health clubs required to install defibrillators under the bill, purchase and place into service more than one defibrillator.

Background Information: The bill establishes a nonrefundable tax credit against the AGI Tax liability of individual and corporate taxpayers for each defibrillator the taxpayer places into service in the taxpayer's health club as a result of the health club defibrillator requirements established by the bill. The tax credit is equal to the purchase price paid by the taxpayer for a defibrillator placed into service during tax year 2007, 2008, or 2009. The tax credit is nonrefundable, and may not be carried back, carried forward, or sold, assigned, or transferred by the taxpayer. If the taxpayer is a pass through entity and does not have a tax liability, the credits could be taken by shareholders, partners, or members of the pass through entity in proportion to their distributive income from the pass through entity. Since the tax credit is effective from tax year 2007 to 2009, the fiscal impact could occur from FY 2008 to FY 2010. However, the distribution of the revenue loss over the three-year period the credit is effective is unknown. Revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Revenue from the corporate AGI Tax is distributed to the state General Fund.

The health club defibrillator requirement created by the bill applies to an establishment at which both of the following apply:

(1) an individual, a corporation, a limited liability company, a partnership, an association, a firm, an educational institution, or any other business enterprise offers: (A) instruction, training, or assistance in physical fitness that is focused primarily on cardiovascular exertion; or (B) facilities for the preservation, maintenance, encouragement, or development of physical fitness or well-being.

(2) at least: (A) 50 persons have purchased or paid a fee for the right to use the physical fitness facilities; or (B) 30 pieces of motorized physical fitness equipment are provided for use by individuals.

The bill specifies that a health club includes: health spas and studios; sports centers; weight control studios; and gymnasiums and workout centers in schools, colleges, and universities. It specifies that a health club does not include: a workout center in a hospital or a health facility; a hotel or motel (unless the workout

center allows membership by individuals who are not guests of the hotel or motel); or an apartment, a condominium, or a town home complex.

2004 *County Business Patterns* data from the U. S. Census Bureau estimates that there are 609 establishments in Indiana within Fitness and Recreational Sports Centers industry sector. The data does not provide operational data for these business establishments other number of employees and payroll. Internet searches of medical supply companies suggest that the relevant price range for defibrillator units varies from about \$750 to over \$2,000.

Class C Infraction: If additional court cases occur due to violation of the requirements to maintain a health club defibrillator, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: (Revised) *Health Club Inspections:* The bill authorizes fire departments to inspect health clubs for compliance with the defibrillator requirements.

Explanation of Local Revenues: *Class C Infraction:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court 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 court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Department of State Revenue; State Department of Health; Division of Fire and Building Safety.

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

Information Sources: 2004 *County Business Patterns Data*, U. S. Census Bureau, <http://www.census.gov>.

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