

SB 144 would have a **minimal to moderate negative fiscal impact on local governments** that have a drug-free workplace policy and procedures, depending on the number of appeals brought. The Kentucky League of Cities (KLC) reports that approximately 70% of its members with one or more employees has a drug-free workplace policy. Kentucky Association of Counties (KACO) reported in 2020, it had received Drug Free Workplace Certification from 28 entities, including 21 fiscal courts that are covered by KACO Worker's Compensation Insurance.

The Human Resources Director for Bullitt County reports that in 2020 there were only 2 county employees who failed a drug test. It is unknown whether they would have challenged the drug test results in an administrative hearing if one had been available

According to Consumerlab, a company that tests natural supplements like hemp-based cannabidiol (CBD), around 10% of people who use CBD can test positive for THC, the psycho-active ingredient in marijuana.

State law currently excludes local government administrative hearings from application of KRS Chapter 13B, so to comply with SB 144 local governments would need to establish their own KRS Chapter 13B hearings procedures. Local governments would then incur costs for drafting, posting for public notice, and holding public hearings to incorporate the changes required by KRS Chapter 13B into local ordinances.

Other expenses to local government would include hiring a hearing officer. A government agency head may serve as a 13B hearing officer; alternatively, the agency would have to hire/contract for a hearing officer. In Kentucky, the hourly wage for state administrative hearing officers ranges from \$18.075/hour to \$35.056/hour. In addition, each 13B hearing officer must receive 18 hours initial training and 6 hours training annually, which the local government may have to pay for.

The bill does not identify who would represent the local government in an administrative hearing. Such representation, whether by the county attorney, city attorney or private counsel, could be another expense to the local government. The average rate paid an attorney for work for a city in 2018 was approximately \$125/hour.

An evidentiary hearing may require hiring an expert to provide expert witness testimony regarding the medical or scientific interpretation of a drug test.

The Kentucky Employers Mutual Insurance Co. anticipates no fiscal impact on local government workers' compensation insurance rates as a result of SB 144.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II applies to SB 144 as introduced. There is no prior version for comparison.

Data Source(s): LRC staff; Kentucky League of Cities; Kentucky Association of Counties; Kentucky Employers Mutual Insurance; Bullitt County Human Resources personnel.

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/23/21