

Department of Planning and Budget

2024 Session Fiscal Impact Statement

1. Bill Number: SB506

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Surovell

3. Committee: Passed both houses

4. Title: Higher educational institutions, public; duties and powers of governing board.

5. Summary: Provides that the governing board of each public institution of higher education shall have authority over the employment of all legal counsel for the institution, including decision-making authority in the commencement or termination of any legal counsel, the employment of outside legal counsel, the oversight and management of any legal counsel, and the appointment of a general counsel to serve as the chief legal officer of the institution. The bill provides that the chief legal officer and the vice president or similarly situated executive officer of such institution shall, under the direction of the governing board of such institution, conduct the legal affairs of and provide legal advice and representation for such institution on any matter that the governing board determines to be in the interest of the institution. The bill clarifies the scope of the involvement of the Attorney General in the legal affairs of public institutions of higher education, providing that the Attorney General may only provide legal service to a public institution of higher education upon request of the governing board of such institution or upon the governing board's decision to delegate all authority in accordance with the provisions of the bill. The bill also provides that the approval of the Attorney General shall be required for any legal settlement involving consideration in excess of \$5 million. The bill permits the governing board of any public institution of higher education with fewer than 7,500 full-time students to delegate all authority over legal counsel conferred pursuant to the provisions of the bill. Finally, the bill requires the governing board of each public institution of higher education to exercise in its collective capacity best judgment in carrying out the powers and duties of the governing board and act at all times in accordance with the duty of loyalty owed primarily to such institution and secondarily to the citizens of the Commonwealth.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Final. See Item 8.

8. Fiscal Implications: Any fiscal impacts expected for public institutions of higher education (IHEs) are considered absorbable at this time.

The Office of the Attorney General (OAG) anticipates the provisions of this bill may result in overall reduced utilization of OAG legal services, which may reduce billings and revenue that support attorneys and staff who serve the public IHEs. Specifically, the OAG indicates that currently a few attorneys on OAG payroll serve public IHEs directly or manage the IHEs' attorneys, and an additional 45 OAG attorneys are on IHEs' payrolls with all salaries

and benefits paid by the employing institutions. At this time, any actual fiscal impact to the OAG or changes to IHE legal counsel as a result of this bill cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Public institutions of higher education, Office of the Attorney General

10. Technical Amendment Necessary: No

11. Other Comments: None