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FISCAL IMPACT REPORT

SPONSOR HJC DATE TYPED 03/02/05 HB 360/HJCS

SHORT TITLE Unfair Trade Practice Mediation Requirements SB _____

ANALYST Ford

APPROPRIATION

| Appropriation Contained | | Estimated Additional Impact | | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|-----------------------------|-------------------------|------------------|
| FY05 | FY06 | FY05 | FY06 | | |
| | | | Minimal -- See Narrative | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates
SB118/SJCS

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute for House Bill 360 requires the parties in a court action for a private remedy pursuant to the Unfair Practices Act to enter into early mediation at the request of one of the parties. The mediation requirement does not apply to actions seeking injunctive relief.

The bill requires that a party to a court action may request mediation within 30 days of the service of summons and complaint. If the request is made, the parties shall choose a mutually acceptable mediator and enter into mediation within 60 days of the appointment of the mediator. If the parties cannot agree on a mediator, the court shall appoint one.

The costs of the mediator are capped at \$50 for the person bringing the suit if the parties enter early mediation within 60 days of the appointment of the mediator. The remainder of the costs for mediation shall be borne by the other party.

FISCAL IMPLICATIONS

The bill requires the courts to appoint a mediator in cases where the parties cannot agree on an acceptable mediator, which may result in minimal cost increases for the courts. Some courts have existing mediation or arbitration programs and may choose to use their existing programs to implement the bill. Courts without an existing program would most likely appoint a private mediator.

The bill may also result in savings to the courts, which could off-set cost increases. To the extent that parties resolve their disputes in early mediation, the costs of trials would be avoided.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The House Judiciary Committee substitute for House Bill 360 duplicates the Senate Judiciary Committee substitute for Senate Bill 118.

OTHER SUBSTANTIVE ISSUES

Identifying an appropriate mediator may be a challenge in some areas of the state. If parties are unable to agree on a mutually acceptable mediator, the court shall appoint one. Each court will have to determine how to implement this requirement given the various resources available in their areas. Courts that have existing mediation programs in place may simply direct the parties to participate in those services. Courts without a program may choose to appoint a private mediator. In some areas of the state, it may be somewhat challenging to find a neutral mediator to appoint.

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