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FISCAL IMPACT REPORT

SPONSOR Cervantes **ORIGINAL DATE** 2/6/15
LAST UPDATED 3/18/15 **HB** _____

SHORT TITLE Create Additional Judgeship **SB** 353/aSFC

ANALYST Sánchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$0.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$173.2	\$178.4	\$364.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB245, SB334, SB336
 Duplicates HB143
 Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Public Defender Department (PDD)
 New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 353 strikes the appropriation.

Synopsis of Original Bill

Senate Bill 353 appropriates \$436.5 thousand from the general fund to create another judgeship in the Third Judicial District Court in Dona Ana County. The appropriation in the bill is for

salaries and benefits, and furniture, supplies and equipment for the district judge and support staff.

FISCAL IMPLICATIONS

The \$436.5 thousand appropriation in this bill is a recurring expense to the general fund. Any unexpended balance remaining at the end of FY16 shall revert to the general fund.

The Judiciary's Unified Budget includes this additional judgeship.

According to AOC, the funding is sufficient for the judgeship to start July 1, 2015. There will be recurring costs of \$414,900 plus yearly salary increases appropriated by the legislature for judges and staff. The total nonrecurring costs are \$21.6 thousand.

In all likelihood the \$21.6 thousand is recurring since supplies and equipment will need to be replaced or upgraded.

The PDD reports that new judgeships increase the demands for public defense. Although a new judge does not directly increase caseloads, additional district judges inevitably acquire a number of criminal cases due to recusals, scheduling conflicts, and the like, which then require court time and some staffing by PDD.

In addition, there is a "ripple effect" from other dockets to the criminal docket when a new courtroom is opened. For example, a judge who now has a mixed criminal/civil/family docket might, with the establishment of a new judgeship, now handle a purely criminal docket. That judge would be able to revise his docket in a way that would move cases more quickly, thereby increasing demand for attorney court time and preparation.

A full-time District Court criminal judge requires two additional public defenders at an annual cost of \$86,855.42 each. Each new District Court judge with only a partial criminal docket requires between one-half and one new public defender.

While it is difficult to estimate the impact of new judgeships on the LOPD, it appears inevitable that such would require additional staffing beyond present levels.

The House Appropriations and Finance Committee substitute for HB 2 as amended by the Senate Finance Committee has \$75 thousand for a judge pro tem in the 3rd Judicial District.

SIGNIFICANT ISSUES

The NMSC reports that the Weighted Caseload Study for the New Mexico Trial Court Judiciary, District Attorneys and Public Defender Department supports the need for a judgeship in the Third Judicial District. The study does not calculate staff needs, only judges.

The AOC reports that the NMSC with the assistance of the National Center for State Courts conducted a workload assessment study in 2007 for the judiciary, district attorneys, and public defenders. Based on FY14 case filings, the study's workload calculation indicates the state needs an additional 12.58 judges statewide. The FY14 results of the workload study are attached. A new judgeship in the Third Judicial District Court would be assigned to the children's court. The

court has sufficient courtroom and office space for the new judge. The workload study shows a greater need for a new judgeship in the Second Judicial District than in the Third Judicial District.

The Chief Judges Council reviewed all district, metropolitan, and magistrate judgeship requests statewide and considered both the need as determined by the workload assessment, as well as cost, additional narrative and testimonial information. Despite the need for 12.58 judges in the courts statewide, the Judiciary is seeking to add two critically needed judgeships in FY 2016. One of the requested judgeships is in the Second Judicial District Court in Albuquerque and the other is in the Third Judicial District Court in Las Cruces.

HB 143 would create the two judgeships recommended by the Chief Judges Council and approved by the Supreme Court in the Unified Budget. The Supreme Court has not approved separating the request into separate judgeships nor has the Supreme Court indicated a priority of one district judgeship over the other. Both judgeships and the necessary funding are in the request in HB 143. Although a new judgeship in the Third Judicial District is included in the legislative initiatives approved in the Unified Budget, SB 353 is narrower than the approved request for two judgeships in the Unified Budget.

PERFORMANCE IMPLICATIONS

SB 353 may have an impact on the measures of the Third Judicial District Court in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

The Weighted Caseload Study for the New Mexico Trial Court Judiciary, District Attorneys and Public Defender Department supports the need for a judgeship in the Third Judicial District. The study does not calculate staff needs, only judges.

According to the AOC, the existing judges in the Third Judicial District are laboring to keep up with the filings. The additional judgeship is needed to help fill the critical shortage of judgeships that exists in the Third Judicial District.

RELATIONSHIP

HB 143 requests two new judgeships, one in the Second Judicial District Court in Albuquerque and one in the Third Judicial District Court in Las Cruces.

SB 336 creates four new “water courts” in different districts, including the Third Judicial District.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AOC reports that without the addition of new judges in both the Second and Third Judicial Districts the courts are at risk of failing to meet their constitutional and statutory duties.