

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Tinnin DATE TYPED: 02/14/01 HB 557
 SHORT TITLE: Create 14th Judicial District SB _____
 ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 90.0		\$ 168.4	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in The General Appropriation Act SJR6, HB215, SB300

SOURCES OF INFORMATION

LFC budget files
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

SB 300 amends Section 34-6-1 NMSA 1978 to create the Fourteenth Judicial District and to modify the Eleventh District. The Eleventh Judicial District, currently composed of the counties of McKinley and San Juan, would be limited to the county of McKinley. The county of San Juan would become the Fourteenth Judicial District.

The bill also appropriates \$90.0 from the general fund to Administrative Office of the Courts for the purpose of funding salaries, benefits, office supplies, materials, furniture and other costs associated with the creation of a Fourteenth Judicial District in the county of San Juan.

The effective date of this bill, with exception to Section 5, APPROPRIATION, is January 1, 2002.

Significant Issues

1. *Splitting the Eleventh District.* The Eleventh Judicial District currently has six judges. The bill assigns two judges to the Eleventh and four to the Fourteenth Judicial District. HB557 also transfers all budgets, personnel, money, funds, appropriations, accounts, furniture, equipment, office supplies and other things of value, plus all contracts, debts, liabilities, or other obligations attributable to those

four judges in the Eleventh Judicial District in San Juan to the Fourteenth Judicial District. Implementing this transfer will not only include cooperation of the judges and courts but also with DFA in regards to inventory, property control and accounting functions along with the State Personnel Office. The question arises: does the proposed Fourteenth Judicial District Court have a courthouse to move into?

2. Effects on the District Attorney's Office. This transfer is applicable to the Eleventh Judicial District Attorney as well; that certain attorneys, staff and resources must be reassigned to the new 14th District. However, this "split" puts into statute what already exists for the Eleventh Judicial District Attorneys Office, a division I and division II. The cost and the impact on the district attorneys would be minimal.

3. Costs incurred for Creating a 14th District. See FISCAL IMPLICATIONS for analyses.

4. Not Supported by the Judiciary Unified Budget. This proposal, creating a 14th Judicial District was not presented in nor endorsed by the Judiciary Unified Budget. Typically, actions such as creating new judgeships or staffing increases or computer acquisitions are supported by statistical analysis and documentation. The AOC presents its Workload Measurement Study data or the Weighted Caseload Analysis to support such requests. In the case of creating the Fourteenth Judicial District, no such data was presented in the bill or in the analyses transmitted to the LFC. In summary, no explanation is given as to why the creation of the 14th district is needed.

5. Conflict with Constitution. A constitutional problem exists because of the effective date. The six judges of the current Eleventh Judicial District were elected in 1996 to six-year terms by voters in both McKinley and San Juan counties. As written, the bill would change the judicial district in the middle of the terms of the duly-elected judges. The next election for district judges is in 2002. As a result, the effective date of the bill should be January 1, 2003 in order to allow the election cycle and the judges' term to be completed without interruption. Language should be included in the bill to outline the election procedures for the election to occur in 2002.

FISCAL IMPLICATIONS

The appropriation of \$90.0 contained in this bill is considered a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of 2002 shall revert to the general fund.

According to the Administrative Office of the Courts, the bill is significantly underfunded for this transfer. The creation of another judicial district will require the establishment of separate office procedures and management of all administrative including budget preparation, fiscal services and human resource management. The bill only appropriates \$90.0 for costs and an unspecified position. AOC believes the recurring cost for the proposed court staff would be \$430.3, \$372.3 less than needed (see attachment).

This analyst believes those amounts are *overstated* because they include positions desired by the Eleventh Judicial District Court as outlined in its FY02 budget request. For basic staffing, it is believed that only four of the positions noted on the attached table are needed: three new FTE for the 14th and one for the 11th District. Total cost would be \$258.4 (not \$430.3), meaning that this bill is indeed underfunded, but by \$168.4.

What is not addressed in any analyses is where the 14th Judicial District going to be housed. Is a courtroom/courthouse available? If not, the cost of a building lease or construction must be calculated into total estimated fiscal impact of this bill.

ADMINISTRATIVE IMPLICATIONS

According to the Administrative Office of the Courts, the creation of the Fourteenth Judicial District would make both the Eleventh and the Fourteenth districts one-county districts. Because neither would have a second county to take recusal or excusal cases, it is anticipated that a larger number of cases would go to the Supreme Court for assignment. Besides the added workload, these cases are often the most controversial and most costly. The cost of increased assignments from the Supreme Court cannot be determined at this time.

TECHNICAL

As noted in 5. *Conflict with Constitution* above, the effective date of the bill should be January 1, 2003. Moreover, language should be included in HB557 to outline the election procedures for the election to occur in 2002.

CMH/njw
Attachment