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## F I S C A L I M P A C T R E P O R T

SPONSOR: Park DATE TYPED: 02/27/03 HB 858

SHORT TITLE: Increase Magistrate Qualifications SB

ANALYST: Hayes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to

### SOURCES OF INFORMATION

Response Received From  
Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 858 amends Section 35-2-1 NMSA 1978 regarding magistrate judges so that no person is eligible for election or appointment to the office of magistrate unless he has graduated from a four-year post-secondary educational institution.

HB 858 also contains a “grandfather clause” which clarifies that magistrate qualifications required by this legislation will not apply to magistrates holding office on January 1, 2003.

#### Significant Issues

1. Currently, the only qualifications for magistrate judges are: a) to reside in the magistrate district for which he is elected or appointed, and b) to graduate from high school or obtain a GED issued by the state’s Department of Public Education.
2. In magistrate districts with a population of 200,000+ (pursuant to the last federal decennial census), a person elected or appointed to the office of magistrate must be a member

## **House Bill 858 -- Page 2**

of the State Bar and be licensed to practice law in New Mexico, in addition to being a resident of the magistrate district.

3. The AOC's Magistrate Court Director (a licensed attorney) responded to LFC's inquiry for information by stating that: "The bill raises the question of whether qualifications for the office of magistrate should be increased." AOC expressed no opinion nor provided any other insight about raising the qualifications of magistrates.
4. Listed below are issues that the committee may want to consider when reviewing this bill:
  - a) Requiring judges to have a college degree may increase public confidence in the judge and the judicial process.
  - b) Requiring judges to have a college degree may create a better sense of parity between a magistrate's salary (\$58,000) and his/her education level.
  - c) Requiring judges to have a college degree may result in a magistrate possessing better writing skills, analytical skills, research skills and decision-making abilities.
5. There does **not** seem to be a correlation between educational attainment level and complaints against judges. According to the 2002 *Annual Report* compiled by the Judicial Standards Commission (JSC), approximately 30 percent of verified complaints are against magistrates; 40 percent are against district court judges (degreed lawyers). Here is the specific breakdown of judges reviewed, by court, pursuant to verified complaints investigated by the JSC:

Supreme Court	0.0%
Court of Appeals	0.0%
District Courts	39.6%
Metropolitan Court	11.9%
Magistrate Courts	29.7%
Municipal Courts	18.8%
Probate Courts	0.0%

## **ADMINISTRATIVE IMPLICATIONS**

According to the Secretary of State's office, they confirm residency requirements of candidates running for office and confirm party affiliation (if application). However, if educational requirements are changed for magistrate judges as proposed in this bill, the Secretary of State does **not** confirm the candidates' background qualifications. A spokesperson for the Secretary of State's office said that AOC would be charged with that responsibility.

## **RELATIONSHIP**

SB 143 is considered the "judgeship bill" and requests new judgeships in district, metropolitan and magistrate courts based on the judiciary's Weighted Caseload Study. The bill requests three additional judgeships for magistrate courts effective July 1, 2003 who would be affected by the

**House Bill 858 -- Page 3**

provisions of this legislation if enacted.

**POSSIBLE QUESTIONS**

1. Are there other states that do not require their judges to have a college degree or some sort of higher education in order to hold office?
2. Bernalillo County has a population of more than 200,000; therefore, it is the only county with a “metropolitan” court instead of a “magistrate” court solely due to population. The jurisdictions of both courts are virtually the same. Why then are judges at the Bernalillo County Metropolitan Court required to be licensed attorneys, but those in magistrate courts are not?

**CMH/njw**