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FISCAL IMPACT REPORT

SPONSOR: Robinson DATE TYPED: 03/21/03 HB _____
 SHORT TITLE: Arrest Fee for Outstanding Bench Warrants SB 482/aHJC
 ANALYST: Hayes

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$0.1	\$0.1	Recurring	Metro Court Arrest Fee Fund
	\$0.1	\$0.1	Recurring	Magistrate Court Arrest Fee Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 352

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)

SUMMARY

Synopsis of HJC Amendments

The House Judiciary Committee amendments mainly concern creating two non-reverting funds: a Metropolitan Court Arrest Fee Fund and a Magistrate Court Arrest Fee Fund into which “law enforcement arrest fees” proposed by this bill will be deposited. New subsections are added to the bill creating these two funds and highlighting that all balances in both funds are to be used solely for paying law enforcement agencies for the expense of arrests. Any unexpended or unnumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

In addition, the HJC amendments allow the arraigning judge, in either metropolitan or magistrate court, to waive the arrest fee if: (1) the defendant cannot post the warrant fee because of indigency; or (2) the arrest was incidental to a traffic stop.

Synopsis of Original Bill

In Section 1 of Senate Bill 482, New Material adds a section to Chapter 34, Article 8A NMSA

1978 which authorizes the metropolitan court to assess a “law enforcement arrest fee” totaling \$100 against a person arrested on a bench warrant issued by the court. However, if the individual arrested has more than one outstanding bench warrant when arrested, only one law enforcement arrest fee will be charged. The “law enforcement arrest fee” shall be transferred to the law enforcement agency responsible for serving the bench warrant.

In Section 2 of Senate Bill 482, New Material adds a section to Chapter 34, Article 8A NMSA 1978 which authorizes a magistrate court to assess a “law enforcement arrest fee” totaling \$100 against a person arrested on a bench warrant issued by the court. However, if the individual arrested has more than one outstanding bench warrant when arrested, only one law enforcement arrest fee will be charged. The “law enforcement arrest fee” shall be transferred to the law enforcement agency responsible for serving the bench warrant.

Significant Issues

1. The only metropolitan court in New Mexico and to which SB 482 will apply is the Bernalillo County Metropolitan Court (BCMC) in Albuquerque since the county population exceeds 250,000.
2. SB 482 states that if a person for whom a bench warrant is issued voluntarily appears in court, then the law enforcement arrest fee will not be assessed.
3. The \$100 law enforcement arrest fee is assessed *per occurrence of arrest*. This may be perceived as inequitable to someone who is arrested because of a single parking ticket turned bench warrant versus someone who has 50+ violations turned bench warrant, but is assessed the same amount (\$100).
4. Pursuant to AOC data, there were 19,165 magistrate court bench warrants served last year. For the Bernalillo County Metropolitan Court, there were 11,825 bench warrants served during the same time period.
5. Part of an officer’s duty is to arrest people who violate the law. This bill now provides revenue to the officer’s department or agency for performing standard law enforcement duties.
6. An offender will be paying a fee for being arrested. Is passage of this bill to encourage people with bench warrants to appear in court voluntarily or is the bill’s intent to generate revenue for law enforcement agencies?

FISCAL IMPLICATIONS

The revenue generated from the law enforcement arrest fee will not be collected for or deposited to the State of New Mexico. Instead, the fees collected will be transferred to the law enforcement agency which was responsible for serving the bench warrant.

Neither the AOC nor BCMC provided estimates for revenue that may be generated from the new fee proposed in this legislation.

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly-created funds. Earmarking reduces the ability of the Legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

According to the Administrative Office of the Courts, AOC would now be responsible for tracking and issuing a substantial number of vouchers for payment to the law enforcement agencies. Passage of SB 482 would require that the magistrate court staff and the staff of police agencies track the number of warrants that are served each month for the purpose of billing the Administrative Office of the Courts. Bernalillo County Metropolitan Court would face the same administrative issues.

RELATIONSHIP

HB 352 proposes that the amount of any fine received by a metropolitan court (BCMC) for a violation of a municipal traffic ordinance in excess of the penalty assessment specified in the Motor Vehicle Code shall be transferred to the municipality (Albuquerque) to reimburse the municipality for costs incurred while performing law enforcement duties.

TECHNICAL ISSUES

SB 482 does not indicate how it reconciles with other statutory provisions regulating the path of all monies collected by the New Mexico magistrate courts and metropolitan courts. When courts collect fees, they are required to deposit them with State Treasury. State statutes may need to be amended in order for the "law enforcement arrest fee" to be directed to local law enforcement agencies.

OTHER SUBSTANTIVE ISSUES

It is conceivable that *the law enforcement agency responsible for service of the bench warrant upon which the law enforcement arrest fee is assessed* is not the agency which actually arrests the individual. What happens in those cases? Does the responsible agency receive the fee or does the agency who actually conducts the arrest get the fee?

QUESTIONS

1. What happens if the case gets thrown out or the charges get dropped? What happens if a person is falsely arrested due to incorrect warrant information?
2. What if an individual can not pay the fee? Does he/she stay in jail? Can community service be offered in lieu of payment of the fee?
3. How many outstanding bench warrants are there in the magistrate courts? At BCMC?