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FISCAL IMPACT REPORT

SPONSOR Saavedra DATE TYPED 03/09/05 HB 901/aHJC

SHORT TITLE Additional Judgeships SB _____

ANALYST McSherry

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$312.4		Indeterminate	Recurring	General Fund
	\$312.4		Indeterminate	Recurring	General Fund
	\$312.4		Indeterminate	Recurring	General Fund
	\$584.4		Indeterminate	Recurring	General Fund
	\$106.3		Indeterminate	Recurring	General Fund
	\$106.3		Indeterminate	Recurring	General Fund
	\$106.3		Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

House Bill 901 Relates to: SB 26, Additional Guadalupe District Magistrate; SB 25, Additional 4th District Judge; and would duplicate: SB 379, Additional 9th District Judge; and HB 473, Additional Santa Fe Magistrate Judge.

SOURCES OF INFORMATION

- LFC Files
- Administrative Office of the Courts (AOC)
- Public Defender (PD)
- Corrections Department (CD)

FOR THE CORRECTIONS OVERSIGHT, COURTS AND JUSTICE COMMITTEE

SUMMARY

Synopsis of HJC Amendment

House Judiciary Committee Amendment would designate one of the bill's proposed Bernalillo County Metropolitan Court to have a docket primarily composed of criminal offenses associated with driving while intoxicated offenses.

Synopsis of Original Bill

House Bill 901 appropriates \$1,840.5 thousand from the general fund. \$312.4 thousand would be appropriated to the 2nd Judicial District Court; \$312.4 thousand would be appropriated to the 9th Judicial District Court, \$312.4 thousand would be appropriated to the 11th Judicial District Court, \$584.4 thousand would be appropriated to Bernalillo County Metropolitan Court; and \$318.9 (\$106.3*3) would be appropriated to the Administrative Office of the Courts (AOC); for the purpose of funding new judgeships including the associated staff, furniture equipment and supplies. House Bill 901 proposes to increase the number of judges in the 2nd, 9th, and 11th district courts by one judge per court, in the Bernalillo Metropolitan Court by two judges, and in the Sandoval, Santa Fe, and San Juan magistrate courts by one judge per court.

The bill proposes to remove NMSA 1978, Section 34-8A-4.1, Subsections B, C, and D which allowed for the initial appointments of the Metro judges and provides for the Metropolitan Court judges to be appointed, elected and retained in accordance with Article 6 of the constitution of New Mexico.

The bill proposes that the magistrate court judgeships in San Juan, Sandoval and Santa Fe Counties would be filled by appointments by the governor and would begin serving on July 1, 2005. The appointed magistrates would serve until succeeded by a magistrate elected at the general election in 2006. The first full term of office of the elected magistrates would begin on January 1, 2007.

The bill changes the precincts associated with each magistrate election "division" in the San Juan Magistrate district in order to create a fifth division to be associated with the proposed fifth magistrate judge in the district.

The three district court judgeships in the Second, Ninth and Eleventh judicial districts would be appointed by the governor pursuant to the provisions of Article 6 of the constitution of New Mexico.

The effective date of the Act would be July 1, 2005.

Significant Issues

In November 1998 an expanded study to provide the legislature with a methodology for determining the needs for additional judgeships, a "Weighted Caseload Study," was conducted. The study assigned a weight, expressed in minutes, for each type of case heard in a court. The weight represented the average amount of judge's time necessary to process a case of that type. Each weight was multiplied by the number of new cases filed per category. The results of the study are attached.

The Office of the Public Defender (PD) asserts that House Bill 901 includes an appropriation for the judges and magistrates, but not for the Public Defender Department or the district attorneys. According to the Department, for each new judge and magistrate, the Department would need funding for additional employees to staff courtrooms.

The Public Defender cites the following as corresponding annual costs to the proposed additional judgeships:

\$103.8 thousand plus \$20 thousand in contract attorney services for 1 additional district court courtroom (in district where the Department has an office) to support 1 attorney and 1 support staff member per courtroom.

\$40 thousand in contract attorney services to support 1 additional district court courtroom (in districts where the Department does not have an office).

\$311.3 thousand plus \$5.0 thousand in contract attorney services to support 2 additional metropolitan court courtrooms to support 3 attorneys and 3 support staff.

\$40 thousand in contract attorney services to staff 1 additional magistrate court courtroom in Santa Fe County with 1 attorney and 1 support staff member per courtroom.

\$40 thousand in contract attorney services to staff 1 additional magistrate court courtroom in Sandoval and McKinley counties.

\$70 thousand in contract attorney services to staff 1 additional magistrate court courtroom in the 11th and 13th Judicial Districts.

AOC asserts that the Chief Judges Council reviewed all district, metropolitan, and magistrate judgeship requests statewide and considered both the need as was determined by the Weighted Caseload Study applied to FY 04 data as well as additional narrative and testimonial information. The Council has proposed two “tiers” of judgeship need. The first tier includes one judge for each of the following: 2nd District, 9th District, 11th District, Metro Court, Santa Fe Magistrate and San Juan Magistrate. The second tier includes an additional 2nd District Judge, an additional 11th District Judge, an additional Metro Court Judge, a 13th District Judge, and a Sandoval Magistrate Judge.

According to AOC, Sandoval County needs a new magistrate judge in the town of Bernalillo because the Bernalillo Magistrate Court has the highest per-judge caseload in the state, with one judge handling 6,520 new case filings in FY 2004. Sandoval County has another magistrate court in Cuba, AOC continues, but the distance from Cuba to Bernalillo and the caseload in Cuba (2,206 new filings in FY 04) prevents the judge in Cuba from providing the assistance necessary to handle the caseload in Bernalillo. AOC reports that Sandoval County is growing rapidly and the caseload in the Bernalillo Magistrate Court is going to continue to grow along with it.

PERFORMANCE IMPLICATIONS

FY 05 is the second year that the courts are participating in performance based budgeting. This bill may have an impact on the measures of the district and magistrate courts in the following measures: cases disposed as a percent of cases filed (district and magistrate), percent change in case filings by case type (district), amount of bench warrant revenue collected (magistrate), amount of criminal case fees and fines collected (magistrate).

The Public Defender asserts that whenever these judges hear criminal cases, the courtrooms will need to be staffed by the Public Defender Department and the district attorney and that the department’s ability to staff the courtrooms will be difficult without additional staffing.

FISCAL IMPLICATIONS

The appropriation contained in this bill is primarily a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the general fund. The AOC reports that \$1,584.3 thousand of the \$1,840.5 thousand proposed in this bill would be recurring, while the additional funds would be used for one-time purchases.

The Public Defender states that the total estimate for new Department attorneys and staff to adequately cover all the courtrooms is \$1,332,500 per year for 20 new FTE's. The funds are not included in HB901 or in the agency's proposed executive or LFC budget.

The Administrative Office of the District Attorneys did not respond with an estimate of costs associated with the proposed new judgeships.

The Corrections Department reports that the additional judgeships could minimally increase the amount of criminal proceedings and probation violation hearings taking place in a given period which could bring about a minimal increase in prison populations and parole/probation caseloads.

ADMINISTRATIVE IMPLICATIONS

The AOC reports that the primary long-term administrative effect on the courts upon passage of this bill would be more efficient and expeditious disposal of cases in the district, metropolitan and magistrate courts.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 26, Additional Guadalupe District Magistrate SB 25, Additional 4th District Judge relate to HB901, but do not duplicate the proposed funding or new judgeships

SB 379, Additional 9th District Judge and HB 473, Additional Santa Fe Magistrate Judge duplicate portions of HB901

OTHER SUBSTANTIVE ISSUES

The Corrections Department reports that, in both the short and long term, this bill would minimally increase the burden on the prison administrative and probation/parole staff because of the increasing prison population and probation/parole caseloads. The Department predicts that it would be able to absorb the additional burden due to the fact that the numbers of persons convicted would be minimal.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The AOC reports that, currently, the courts listed in this bill to which judges are proposed to be added are experiencing significant delays in hearing and disposition of cases. If HB901 were not enacted, it is likely the current situation would continue.

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Judge and Staff Need for District Courts and Metropolitan Court for FY 06				
Agency	Judges/Hearing Officers			
	Judge Need ¹ (based on weighted caseload study)	Current Actual Judges	Hearing Officers/Special Masters ² (at 66% of judge weight)	Gap (negative number denotes need)
First Judicial District	8.72	7.00	1.33	(0.39)
Second Judicial District	29.82	23.00	4.66	(2.16)
Third Judicial District	8.30	7.00	0.66	(0.64)
Fourth Judicial District	2.58	2.00	0.34	(0.24)
Fifth Judicial District	10.25	8.00	0.00	(2.25)
Sixth Judicial District	3.86	3.00	0.00	(0.86)
Seventh Judicial District	3.22	3.00	0.66	0.44
Eighth Judicial District	2.82	2.00	1.00	0.18
Ninth Judicial District	5.53	3.00	0.54	(1.99)
Tenth Judicial District	1.22	1.00	0.11	(0.11)
Eleventh Judicial District	9.66	6.00	0.66	(3.00)
Twelfth Judicial District	4.56	4.00	0.66	0.10
Thirteenth Judicial District	8.55	6.00	1.33	(1.22)
DISTRICT POSITIONS NEEDED ⁴ :				12
Bernalillo County Metropolitan Court	18.68	16.00		(2.68)
¹ Weighted Caseload Study for judges revisited in 1998 by NM AOC and Heidi Green, National Center for State Courts				
² Court Administrators provided information based on: - if hearing officer/special master is shared with another district, FTE time was estimated - hearing officers/special masters given credit of .66 of a district judge as authorized by Chief Judges Council on May 21, 2004				
⁴ Total Positions Needed (.5 or greater need rounded to the next whole number.)				

ATTACHMENT