FISCAL IMPACT REPORT

SPONSOR   SJC   DATE TYPED   3/4/05   HB

SHORT TITLE   Expand Jury Selection Pool   SB   240&461/SJCS

ANALYST   Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			$0.1		

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

The Senate Judiciary Committee substitute for Senate Bill 240 and Senate Bill 461 relates to juries and does the following:

- Expands the jury pool to include personal income tax filers;
- Modifies excusals and qualifications;
- Allows postponements;
- Provides that the supreme court will determine the length of jury terms;
- Protects employees serving on juries; and
- Updates language on random selection of jurors to reflect new technology.

The bill requires Taxation & Revenue Department (TRD) to provide an electronic database of personal income tax filer names and addresses to the Information Systems Division (ISD) of the General Services Department (GSD) to be used to produce the random jury source list for the selection of petit or grand jurors for the state courts.. Identifier information will be the only data transferred. No tax information will be included in the database.

The bill allows TRD to confirm that a person is a registered taxpayer, but does not allow TRD to disclose whether a person has filed a tax return. It also requires that any written ruling by aTRD hearing officer will not include the name and identification number of the taxpayer.
The bill makes any employee of the Administrative Office of the Courts (AOC) or the courts or ISD who reveals information in the data base to individuals who are not employed in one of these agencies subject to penalties

The bill amends the jury enabling statute to add personal income tax filer names and addresses to the current jury source list of registered voters and licensed drivers.

The bill states that a person scheduled to appear for service on a petit jury may request a post-ponement of the date of initial appearance for jury service. The request for postponement shall be granted if the juror has not previously been granted a postponement and agrees to a future date, approved by the court, when the juror will appear for jury service that is not more than six months after the date on which the prospective juror originally was called to serve.

A subsequent request to postpone jury service may be approved by the court only in the event of an emergency that could not have been anticipated at the time the initial postponement was granted. Prior to the grant of a subsequent postponement, the prospective juror must agree to a future date on which the juror will appear for jury service within six months of the postpone-ment.

A court shall postpone and reschedule the service of a summoned juror, summoned juror's right if the summoned juror is:

- employed by an employer with five or fewer full-time employees, or their equivalent, and another employee of the same employer is summoned to appear during the same period;

- the only person performing particular services for a business, commercial or agricultural enterprise and whose services are so essential to the operations of the business, commer-cial or agricultural enterprise that the enterprise must close or cease to function if the per-son is required to perform jury duty; or

- required to attend to an emergency as determined by the judge.

The bill changes the qualifications of a juror to allow a convicted felon to serve as a juror.

A person may be excused from jury service at the discretion of the judge, or the judge's designee with or without the person's personal attendance upon the court, if:

- jury service would cause undue or extreme physical or financial hardship to the prospec-tive juror or to a person under the prospective juror's care or supervision;

- the person has an emergency that renders the person unable to perform jury service; or

- the person presents other satisfactory evidence to the judge.

The person requesting an exemption or an excuse from jury service shall take all necessary ac-

tion to obtain a ruling on the request no later than the date on which the person is scheduled to appear for jury duty.

The bill defines undue or extreme physical or financial hardship as a circumstance in which a person will be required to abandon another person under the person's care or supervision due to the extreme difficulty of obtaining an appropriate substitute caregiver during the period of jury service; will incur costs that would have a substantial adverse impact on the payment of necessary daily living expenses of the person or the person's dependent; or suffer physical hardship that will result in illness or disease.

The supreme court will establish, by rule, the appropriate length of jury terms. The court shall consider the number of trials held, the availability of jurors and the administrative and financial impact.

The district court of each county shall maintain a list of the names of the jurors duly empaneled and present for the trial of a case. The judge shall cause the names to be randomly selected until sufficient names have been drawn to provide the number of jurors required for the trial. container The name and number of each juror shall be announced. Twelve or six jurors shall compose a petit jury in the district courts for the trial of civil causes. Twelve jurors shall compose a petit jury in criminal and children's court cases. Magistrate and metropolitan jury court selection shall be conducted in accordance with supreme court rules."

The bill also protects employees by requiring that employers shall not require or request an employee to use annual, vacation or sick leave for time spent responding to a summons for jury service, participating in the jury selection process or serving on a jury.

Significant Issues

The current jury enabling statute sets out a manual process for each district to follow to randomly select jury pools. The bill replaces this language with generic language that will be accurate as technology changes.

The policy of this state is that all qualified citizens have an obligation to serve on juries and to give truthful information concerning attitudes, opinions and feelings about topics relevant to the proceeding for which they are called to serve when summoned by the courts of this state.

This bill amends the TRD statutes and the jury enabling statute to allow TRD to provide an electronic list of personal income tax filers to be added to the jury source list. The only information TRD will provide is name and address. No tax information will be transferred.

The current jury source list is registered voters and licensed drivers. Adding personal income tax filers will add unique names to the jury source list that are not on the list today, and will add updated addresses yearly through the income tax filing process. The AOC anticipates that this bill will make the jury source list more diverse and the number of undeliverable summons will decline as the use of old addresses will decrease.

The PDD states that this is a very important bill for them. Currently, jury pools are so small in some districts that it is very difficult to get an unbiased jury panel selected. Often, jurors are required to sit through several trials, which tends to bias them. Additionally, jurors are often required to sit through a particular trial, even when they have expressed doubts about their ability

to be fair and impartial because they have a connection to the parties or they have been exposed to excessive pre-trial publicity. When the venire pool is expanded, there are more potential jurors available who can be fair and impartial to both sides of the litigation.

FISCAL IMPLICATIONS

There will be one-time costs for the TRD to develop the database and enhance programming to eliminate duplicate names and addresses. The AOC will reimburse TRD for all programming expenses necessary to create this database. Once created, ongoing costs to update the database should be minimal.

The AOC already reimburses the ISD for costs related to generating the jury source list. It is unlikely this expense will change significantly. All expenses related to the development and maintenance of the jury source list are paid from the Jury &Witness Fee Fund.

ADMINISTRATIVE IMPLICATIONS

Initially this statutory change will require coordination and programming to merge the lists and to eliminate duplicates. The printing, mailing and staff costs of summoning jurors should decline as more current addresses are incorporated into the jury source list.

ISD is currently creating jury pool by merging motor vehicle registration and voter registration databases. ISD has capacity to house database and transport media, and to provide secure transport. The current program can be modified to easily accommodate tax filer database

There will be an administrative cost to put the new changes in place, but an administrative savings when more current addresses are incorporated into the jury source list.

OTHER SUBSTANTIVE ISSUES

The AGO noted that jury service is limited to residents of New Mexico who reside in the county in which the jury sits. The AGO assumes there are non-residents of New Mexico who are required to file New Mexico tax returns due to New Mexico source income. There should be some method to screen non-residents from the database to be produced by TRD. It may be appropriate.

DW/yr