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FISCAL IMPACT REPORT

SPONSOR Sánchez, M. DATE TYPED 2/28/05 HB _____

SHORT TITLE Public Defender Employees, Raises and Contracts SB 865

ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$211.9			Recurring	General Fund
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	\$112.8			Recurring	General Fund
	\$87.6			Recurring	General Fund
	\$58.9			Recurring	General Fund
	\$58.1			Recurring	General Fund
	\$37.6			Recurring	General Fund
	\$500.0			Recurring	General Fund
	\$1,200.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act
A portion duplicates House Bill 408

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (NMPD)
Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 865 appropriates \$2,690.7 from the general fund to the Public Defender Department for the purpose of adding twenty FTE to the department staff, providing a fee structure for contracting representation of defendants in death penalty cases, and providing salary increases for public defenders.

Significant Issues

Additional Staff. This bill appropriates \$990.7 for the purpose of adding twenty FTE distributed across the state as follows:

- three attorneys and one secretary in the Albuquerque felony office;
- three attorneys and a secretary in the Bernalillo County Metropolitan Court office;
- three attorneys and a secretary in the Clovis office,
- one receptionist each in the Taos, Aztec and Alamogordo offices;
- an information technology support staff in the southern part of the state;
- an attorney in the Santa Fe office; and
- a data entry clerk for the contract counsel legal services program.

The agency did not request these positions as expansion items in its original budget request.

Contract Attorney Representation. The bill also appropriates \$500.0 for the department to support contract attorney representation of defendants in death penalty cases. The department has requested continuing language to expend the remaining balance of the \$870.0 appropriated by Laws 2004 for support of the Santa Rosa prison riot cases and an additional \$640.0 as a special appropriation to provide contract case support, both of which are supported by HAFC Substitute for HB 2 et al.

Pay Parity. The \$1,200.0 appropriation in this bill duplicates the appropriation in House Bill 408, which calls for salary increases for attorneys in the Public Defender Department to achieve pay parity at all attorney classifications with other state-employed attorneys including those employed by the executive branch, the Office of the Attorney General and the Administrative Office of the Courts. The following table summarizes the cost of pay parity with benefits for the public defenders.

Attorney Classification	Cost with Benefits
Public defender I and II (entry-level)	\$426.0
Public defender III (mid-level)	\$468.0
Public defender IV (mid-level)	\$284.0
Public defender V (advanced-level)	\$42.0
Total Cost for Public Defender Parity	\$1,220.0

HAFC Substitute for HB 2 et al. includes \$154.6 thousand to provide a special two percent salary increase for entry- and mid-level public defenders. This appropriation addresses recruitment and retention issues raised and heard by the LFC during the interim.

FISCAL IMPLICATIONS

The appropriation of \$2,690.7 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall revert to the general fund.

The LFC FY06 appropriation recommendation is balanced between revenues and expenditures and any increase in recurring funding must be offset by reductions in other areas of the recommendation. The Legislature must consider all priorities and funding requirements to find revenue to support this legislation.

The department does not believe that funds are available for the appropriations in this bill on an ongoing basis. The appropriation in this bill is not included in the executive's budget recommendation, which the department supports.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 408 provides for pay parity for public defenders with other state-employed attorneys. House Bill 406 provides for pay parity for assistant district attorneys with other state-employed attorneys.

OTHER SUBSTANTIVE ISSUES

H AFC Substitute for HB 2 et al. includes an appropriation of \$550.0 to NMPD for the purpose of adding five attorneys and three secretaries to the NMPD staff (\$420.0) and funding contract attorneys and overhead (\$130.0) contingent upon passage of House Bill 901 during this legislative session. House Bill 901 proposes additional judgeships throughout the judiciary.

POSSIBLE QUESTIONS

Are the appropriations contained in this bill vital to the operations of the Public Defender Department?

DXM/lg