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FISCAL IMPACT REPORT

ORIGINAL DATE 2/14/07
 SPONSOR Jennings LAST UPDATED 3/15/07 HB _____
 SHORT TITLE Municipal Traffic Violation Penalties SB 780/aSJC/aHTPWC
 ANALYST Earnest

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$0.1*	\$0.1*	Recurring	General Fund
	\$0.1*	\$0.1*	Recurring	Judicial Education Fund
	\$0.1*	\$0.1*	Recurring	Municipal Court Automation Fund

(Parenthesis () Indicate Revenue Decreases)

*Indeterminate but potential positive impact from assessed penalties and fees. See revised fiscal implications section. See also the Synopsis of the HTPWC Amendment for an AOC estimate of revenue that would have been generated for the state from Albuquerque’s STOP program.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Department of Public Safety (DPS)
 NM Municipal League
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HTPWC Amendment

The House Transportation and Public Works Committee (HTPWC) amendment strikes the entire SJC amendment and strikes Sections 2 and 3 of the bill. The HTPWC amendment replaces new language in Section 1, Subsection A, to require a municipality, “including a home-rule municipality that has adopted a charter pursuant to Article 10, Section 6 of the constitution of New Mexico, that enacts an ordinance creating violations that are the same as or related to violations of the Motor Vehicle Code, to:

(1) establish fines or penalties for the violations that are identical to penalties in the Motor Vehicle Code for the same or most closely related violations of that code; and

(2) unless the person charged with a violation is subject, for that violation, to the jurisdiction of a municipal, magistrate or metropolitan court, charge fees and make distribution of those fees, as described in Section 35-14-1 NMSA 1978 for municipalities with municipal courts and as described in Subsection D of Section 35-6-1 NMSA 1978 and Section 35-7-4 NMSA 1978 for municipalities with magistrate or metropolitan courts;

AOC indicates that 89,000 citations have been issued through Albuquerque’s STOP program. According to AOC estimates, if the provisions of this bill were in effect at the outset of the STOP program, the revenue to the state would have been distributed as follows:

	Recipient	Traffic Violations Fee Assessment	# of STOP Citations since June 2005 to Feb 2007 (20 mos)	Potential Revenue Collected
General Fund		10.00	89,000	890,000.00
Court Automation	AOC	10.00	89,000	890,000.00
Facilities Fee	NMFA	24.00	89,000	2,136,000.00
Correction Fee	Local Public Bodies	10.00	89,000	890,000.00
Brain Injury Fee	Aging & LTC	5.00	89,000	445,000.00
Traffic Safety Fee	DOT	3.00	89,000	267,000.00
Judicial Education Fee	UNM/Jud Ed	2.00	89,000	178,000.00
Total Assessment		64.00		\$ 5,696,000.00

Source: AOC and LFC Files

The HTPWC amendment also adds a new Section 2, stating that the provisions of the act apply prospectively to all municipal ordinances enacted before or after the effective date of the act.

Synopsis of SJC Amendment

The Senate Judiciary Committee (SJC) amendment inserts references to the fees authorized by Sections 66-8-130 and 35-14-11, which require, respectively, traffic citations to conform and set fees for distribution to municipal courts and state treasury. The revised fiscal implications section below describes these distributions.

SJC amendment #9 incorrectly refers to “assessments” on line 7 of page 7. The correct reference is “assessment”.

Synopsis of Original Bill

Senate Bill 780 would prohibit municipalities from setting penalties for traffic violations higher than those set by state statute. Specifically, the bill provides that penalties and fees imposed by a civil or criminal nuisance ordinance for violation of municipal traffic laws or codes, including those imposed by a home-rule municipality that has adopted a charter pursuant to Article 10,

Section 6 of the constitution of New Mexico, shall not be different than the penalties and fees imposed by the state in the Motor Vehicle Code for violation of identical or similar traffic laws.

FISCAL IMPLICATIONS

By requiring municipal penalties to conform to state statute, including revenue distribution, the state should realize an additional but indeterminate amount of revenue. Failure to obey a traffic signal is a \$10 penalty and is remitted to the state treasury. Section 35-14-11 requires municipalities to assess corrections, judicial education, and court automation fees. Corrections fees are set a \$20 and retained by the municipality for detention and other correctional costs. Judicial education fees are set at \$2 and remitted to the state for training of municipal judges. Court automation fees are set at \$6 and are remitted to the state for operations of court automation systems in municipal court. Section 66-8-130 also requires the municipality to assess an additional \$10 penalty for construction and operational costs of municipal jails.

The bill may result in reduced revenue for those municipalities that have set penalties higher than in the state Motor Vehicle Code.

SIGNIFICANT ISSUES

According to DFA, the bill will restrict the ability of local governments to be creative in their imposition of fees and fines for motor vehicle violations. In practice, the communities affected by this proposal will experience a drop in receipts from local penalties and fees. The NM Municipal Leagues notes that municipal penalty assessments are substantially similar to those provided for in the state Motor Vehicle Code, although there are a few municipal penalty assessment programs that impose higher fines. In particular, the City of Albuquerque would be required to amend its STOP program to provide for civil penalties that mirror the state Motor Vehicle Code with a corresponding significant reduction in revenue.

TECHNICAL ISSUES

NM Municipal League finds this bill to be inconsistent with section 35-14-11 that sets forth the fees municipal judges are authorized to impose.

NM Municipal League also suggests changing, in section 3 paragraph B, \$10.00 to \$20.00 to reflect existing law.

BE/nt:csd