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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/09

SPONSOR Cervantes LAST UPDATED \_\_\_\_\_ HB 183

SHORT TITLE Low-Income Legal Services SB \_\_\_\_\_

ANALYST Aubel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$1,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Indeterminate See Below	Indeterminate See Below	Indeterminate See Below	Recurring	General Fund for AOC

(Parenthesis ( ) Indicate Expenditure Decreases)

\*See Fiscal Impact

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

Administrative Office of the Courts (AOC)

Public Defender Department (PDD)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

House Bill 183 appropriates \$1 million from the general fund to the Civil Legal Services Fund administered by the Civil Legal Services Commission within the Local Government Division

(LGD) of the Department of Finance and Administration expands legal assistance to low-income people in New Mexico.

**FISCAL IMPLICATIONS**

The appropriation of \$1 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY10 shall not revert to the general fund.

According to the December 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$293 million, or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

The AOC proposes that additional funding to this program may reduce operating costs for the courts due to more efficient court processes and a reduction in the number of hearings. The cost savings are indeterminate.

**SIGNIFICANT ISSUES**

The Civil Legal Services Commission (Commission) was enabled by the New Mexico Legislature in 2001. The Commission solicits proposals and enters into contracts with nonprofit organizations that provide a range of free civil legal services to low-income New Mexicans. The Civil Legal Services (CLS) Bureau operates in the Community Development Program at DFA.

According to DFA, the program addresses such civil legal issues involved with domestic violence, family law, child custody, landlord/tenant disputes, foreclosures, unsafe housing, Temporary Assistance For Needy Families (TANF), social security, healthcare, Medicare, Medicaid and predatory lending. According to AOC, all legal services programs have financial eligibility criteria for clients. Generally families must earn less than 125% of the federal poverty level (about \$25 thousand for a family of four). According to AOC, in New Mexico one person in five or 411 thousand people, meets these criteria. The agency adds that approximately 25 percent of civil legal aid clients are Native American, 50 percent are Hispanic, and many clients are single mothers.

Prior to FY07, the Civil Legal Services Commission was funded from docket fees and other filing fees from District Courts, Magistrate Courts, and Metropolitan Courts. In FY08, the Legislature began adding general fund support, as follows:

Appropriations Included in GAA – Prior Fiscal years

Fiscal Year	General Fund	Other State Funds*	Total Civil Legal Services Contracts
FY07	\$0.0	\$1.5 million	\$1.4 million
FY08	\$2.5 million	\$2 million	\$4.3 million
FY09	\$2.6125 million	\$2 million	\$4.5 million

\* Docket fees and other court filing fees

The agency requested \$4.3 million for contractual services in the Civil Legal Services Program for FY10; including \$2.6125 million in general fund and \$1.8 in the other state funds.

### **PERFORMANCE IMPLICATIONS**

DFA states that the Commission oversees the contracts and operates with strict accountability. The CLS Bureau compiles case load data and other information that tracks the program's activities annually. According to the FY08 report, the total number of cases closed using all funding sources was 28,113 and the number of persons benefitting from closed cases is estimated at over 600 thousand. This estimate counts all family members associated with a case.

### **ADMINISTRATIVE IMPLICATIONS**

According to the AOC, self-represented litigants have more questions, make errors, and require more staff time to process their cases. Additional assistance for low-income persons should ease the workload of the clerk's office.

Additional contracts will need to be monitored by the Commission and the CLS bureau at DFA.

### **OTHER SUBSTANTIVE ISSUES**

One example of the nonprofit organizations involved in the program is New Mexico Legal Aid. New Mexico Legal Aid represents clients in the areas of child support, lack of affordable housing, social security disability and Medicaid.

DFA notes that funds from this bill will not be used to represent people in criminal matters. The Public Defender's Office notes that it is charged with the representation of indigent criminal defendants and provides no services to low-income individuals in civil matters.

The Higher Education Department states that opportunities are needed for UNM Law School graduates interested in poverty law to practice in New Mexico. The agency suggests that by funding organizations that provide free legal services, the Civil Legal Services Commission creates jobs for University of New Mexico Law School graduates who are interested in providing *pro bono* services.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Funding for the program will be based on appropriations continued at a level determined in the General Appropriation Act for FY10. The LFC recommendation for this program is \$3.9 million in contractual services, a reduction of approximately \$600 thousand, of which \$200 thousand is a reduction in the other state funds requested by the agency and \$362 thousand is a reduction in the recommended general fund support.

### **POSSIBLE QUESTIONS**

1. How many low-income individuals remain un-served in the state?
2. How many more people could be served with this additional funding?
3. What is the projected caseload based on the economic downturn?