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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 01/28/11  
**SPONSOR** Stewart **LAST UPDATED** 03/18/11 **HB** 58/aHJC  
**SHORT TITLE** Judicial Retirement Contributions **SB** \_\_\_\_\_  
**ANALYST** Wilson

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	\$3,051.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 88

Conflicts with HB 628/HAFCS/aSFC

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
		\$3,000.0	Recurring	General Fund
		(\$3,000.0)	Recurring	Docket Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Bernalillo County Metropolitan Court (BCMC)

Public Employees Retirement Association (PERA)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 58 brings Section 10-12B-3 NMSA 1978 into conformance with the provisions of HB 58. Contributions will no longer come from docket and jury fees of Metropolitan Courts, District Courts, the Court of Appeals and the Supreme Court.

### Synopsis of Original Bill

House Bill 58 appropriates \$3,051,000 from the general fund to the Department of Finance and Administration for expenditure in fiscal year 2012 for distribution to the Supreme Court, Court of Appeals, District Courts, BCMC and the AOC to pay increased employer contributions to the judicial and magistrate retirement funds.

House Bill 58 would, beginning in FY12, fund judicial retirement funds from employer and employee contributions as a percentage of salary. The current statutory scheme relies in part on collection of docket fees, in the amount of about \$3,000,000 per year. HB 58 directs the docket fee collections to the general fund, and appropriates from the general fund \$3,051,000 to pay the increased employer costs.

### **FISCAL IMPLICATIONS**

The appropriation of \$3,051,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall not revert to the general fund.

HB 58 appropriates \$3,051,000 for the increased employer contribution costs. HB 58 directs the docket fees to the general fund. In FY10, the docket fees generated revenues of \$2,923,969. The amount of revenue generated by the docket fees varies from year to year, depending on the number of cases filed. Under this bill the docket fees will revert to the general fund at a \$25/per case rate. It is estimated by the AOC that this will be \$3,000,000.

The general fund will be at risk if docket fees do not increase and salaries rise as employer contributions are based on percentages of salaries.

The estimates of the AOC show that the general fund will be short \$51,000. The appropriation is firm from the general fund to the courts, but the amount of revenue from the Docket Fund is not guaranteed.

### **SIGNIFICANT ISSUES**

The AOC claims that a bill to accomplish what HB 58 proposes has been supported by the Judiciary for several years. The AOC advocated the changes provided in HB 58 during testimony in 2010 to the Retirement Systems Solvency Task Force. HB 58 takes the first critical step to securing the retirement funds for New Mexico judges. If enacted, these changes would allow a sound actuarial evaluation of the retirement funds, and would permit intelligent planning for any necessary increases in employee or employer contributions in the future.

Per the June 30, 2010 valuation, the retirement fund under the Judicial Retirement Act for all attorney judges in metropolitan, district and appellate courts would have an Actuarially Required Contribution (ARC) of 51.80% of salary. The ARC is the total contribution rate required to meet minimum industry standards for funding. Under current law, the employer contribution is 12%, the employee contribution is 7.5% and the estimated contribution from docket fees is 18.34% of salary for total contributions of 37.84% of salary. HB 58 sets the employer contribution rate at 30.49% and 0% contribution from the docket fund. With the employee contribution rate of 7.5%, total statutory contributions would be 37.99% of salary. This remains 13.81% of salary below the ARC. Changing the funding mechanism to a percentage of salary puts the plan on a

more stable funding platform. PERA also states this bill will help accurately assess the ongoing security of the retirement fund.

Per the June 30, 2010 valuation, the retirement fund under the Magistrate Retirement Act for all attorney judges in metropolitan, district and appellate courts an ARC of 58.89% of salary. Under current law, the employer contribution is 11%, the employee contribution is 7.5% and the estimated contribution from docket fees is 11.55% of salary for total contributions of 30.05% of salary. HB 58 sets the employer contribution rate at 25.96% of salary and 0% contribution from the docket fund. With the employee contribution rate of 7.5%, total statutory contributions would be 33.46% of salary. This remains 25.43% of salary below the ARC. Changing the funding mechanism to a percentage of salary puts the plan on a more stable funding platform. PERA also states this bill will help accurately assess the ongoing security of the retirement fund.

PERA provided the following:

Under current law, docket fees are the major source of contribution revenue to both the Judicial and Magistrate Retirement Funds and account for approximately 50% of contribution revenue. Docket-fee revenue is related to the volume of judicial and magistrate court activity. Conversely, the principal sources of the retirement fund obligations derive from a pension benefit that relates to judicial and magistrate payroll. Historically, PERA's actuaries have indicated that a poor correlation between docket fees and judicial/magistrate payroll exists. PERA's actuaries have consistently recommended that all employer contributions for both the judicial and magistrate retirement funds be related to payroll. HB 58 addresses this recommendation and is essential to the long-term health of these retirement funds.

Correlating employer contributions to judicial and magistrate payroll is a positive step in meeting the long-term obligations of the retirement funds. HB 58's proposed statutory contribution rates are insufficient to meet the required statutory contributions necessary to meet the obligations of the funds. The basic funding objective of the retirement funds is to avoid transferring costs of statutory obligations between generations of taxpayers. This objective is met if the funding sources are sufficient to 1) fund costs allocated to the current year on account of service earned by the judiciary (Normal Cost) and 2) fund over a 30-year period the costs of prior years of service credit earned by the judiciary (Unfunded Actuarial Accrued Liability) or (UAAL). For example, HB 58 increases the employer contribution to the Judicial Retirement Fund for each judge covered by the Act from 12 % to 31.49 % of salary.

Likewise, HB 58 increases the employer contribution to the Magistrate Retirement Fund for each magistrate covered by the act from 10% to 25.96 % of salary.

### **ADMINISTRATIVE IMPLICATIONS**

Agencies affected by this bill can handle the provisions of this bill with existing staff as part of ongoing responsibilities.

### **RELATIONSHIP**

HB 58 relates to SB 88, Judicial Employee Retirement Contribution. SB 88 amends the same sections of law by increasing the net contribution rate by employers and employees 2% per year

from FY12 to FY15. SB 88 does not make an appropriation to fund the increased employer contributions. SB 88 does not alter the current structure for docket fees contributing to the retirement funds.

HB 58 conflicts with HB 628/HAFCS/aSFC, which has a different schedule of contributions to reflect employer to employee shifts for FY12 for the judicial plans.

DW/bym