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FISCAL IMPACT REPORT

	ORIGINAL DATE	02/03/11	
SPONSOR <u>Chavez, D.</u>	LAST UPDATED	<u>03/01/11</u>	HB <u>205/aHLC/aHJC</u>
SHORT TITLE <u>Defining "Community Service"</u>			SB _____
		ANALYST	<u>Graeser</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Bernalillo County Metro Court
 New Mexico Corrections Department (NMCD)
 Administrative Office of the District Attorneys (AODA)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee Amendment to House Bill 205 conforms the title of the amended bill to the substance of the HLC amendment. See the second paragraph below.

Synopsis of HLC amendment

The House Labor and Human Resources Committee Amendment to House Bill 205 increases flexibility in sentencing a violator to community service. The amendment allows judges to impose appropriate alternative service which can include projects that remove debris, rubbish or trash. Community service may include clean-up projects organized by JPA with a municipal or county government, but is not required.

After amendment, the title of the bill does not accurately reflect the content of the bill. The title declares, "DEFINE 'COMMUNITY SERVICE' AS LABOR DEVOTED TO REMOVING DEBRIS, RUBBISH AND TRASH." Cleanup projects are, after amendment, an acceptable community service, but not the only community service that a judge may impose.

Synopsis of Original Bill

House Bill 205 further specifies appropriate community service imposed on violators as a part of a criminal sentence. The bill adds the phrase, “labor ... that emphasizes cleanup projects that remove debris, rubbish or trash to beautify New Mexico and that may be pursuant to joint powers agreements between the courts and municipal governments, county governments or the tourism department pursuant to the Litter Control and Beautification Act.”

The bill does not eliminate the discretion of courts to determine the type of labor and period of service when ordering community service as a condition of a deferred or suspended sentence.

FISCAL IMPLICATIONS

No fiscal implications of this bill.

SIGNIFICANT ISSUES

Bernalillo County Metropolitan Court offers a perspective:

In FY2009, Bernalillo County Metropolitan Court defendants performed 119,496 hours of community service in the form of weed and litter or beautification duties for three municipal agencies. During the same time period, defendants performed 116,381 hours of community service with 75 public, charitable or educational entities, less than half of which ‘emphasize’ beautification duties.

As few agencies offer community service opportunities that “emphasize” the removal of weeds and litter, passage of the bill would appear to require that most defendants who had previously been sentenced at Metropolitan Court to perform community service at one of 75 public or charitable institutions be referred instead to the City of Albuquerque. When the Court used the City almost exclusively in the past for community service referrals, the latter was unable to properly monitor and track the hours worked by individual defendants.

However, this concern may be overstated. Inclusion of the phrase “emphasize” in the amendment, while retaining the sole power of the judge to determine appropriate community service projects should work OK. In some jurisdictions, there may be enough beautification projects with adequate supervision to accommodate all appropriate violators, subject to judges’ discretion. In other jurisdictions, including Bernalillo County, the judges may not be able to place all violators in appropriate and supervised debris, rubbish or trash projects. In either case, the amendment does not mandate, merely suggests appropriate service.

NMCD, in its analysis of HB 164, pointed out that joint powers and other agreements concerning the performance of this community service will need to address who is responsible for any injuries suffered by probationers during their performance of the community service. This same concern applies to HB 205.

ADMINISTRATIVE IMPLICATIONS

Bernalillo County Metropolitan Court is concerned that greatly increasing the number of defendants that are referred to the City of Albuquerque for weed and litter duty would put an

administrative burden on the City of Albuquerque that it may be unable to meet – thereby requiring the hiring of at least one additional FTE (Court Clerk 2) at the annual cost of approximately \$40.9 to track the community service hours of the Court’s defendants.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 164 amends the same section of law. HB 164 removes the discretion of judges to tailor a community service to achieve the maximum effect. HB 164 provides that the only suitable community service is physical labor removing debris, rubbish and trash and no longer permits non-profits to propose projects.

LG/svb:mew