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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND; INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12B-1 NMSA 1978 (being Laws 1992, Chapter 111, Section 1) is amended to read:

"10-12B-1. SHORT TITLE.--~~[Sections 1 through 17 of this act]~~ Chapter 10, Article 12B NMSA 1978 may be cited as the "Judicial Retirement Act"."

SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992, Chapter 111, Section 11, as amended) is amended to read:

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1 "10-12B-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The member's
2 court shall contribute ~~[the following amounts to the fund:~~

3 ~~(1) prior to July 1, 2005, nine percent of~~
4 ~~salary for each member in office;~~

5 ~~(2) from July 1, 2005 through June 30, 2006,~~
6 ~~ten and one-half percent of salary for each member in office;~~
7 and

8 ~~(3) on and after July 1, 2006, twelve percent~~
9 ~~of salary for each member in office, except that, from July 1,~~
10 ~~2009 through June 30, 2011, for members whose annual salary is~~
11 ~~greater than twenty thousand dollars (\$20,000), the member's~~
12 ~~court contribution rate shall be ten and one-half] thirty and~~
13 ~~forty-nine hundredths percent of salary for each member in~~
14 office.

15 ~~[B. Thirty-eight dollars (\$38.00) from each civil~~
16 ~~case docket fee paid in the district court, twenty-five dollars~~
17 ~~(\$25.00) from each civil docket fee paid in metropolitan court~~
18 ~~and ten dollars (\$10.00) from each jury fee paid in~~
19 ~~metropolitan court shall be paid by the court clerk to the~~
20 ~~employer's accumulation fund.]"~~

21 SECTION 3. Section 10-12C-11 NMSA 1978 (being Laws 1992,
22 Chapter 118, Section 11, as amended) is amended to read:

23 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,
24 through the administrative office of the courts, shall
25 contribute ~~[the following amounts to the fund:~~

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1 ~~(1) through June 30, 2006, ten percent of~~
2 ~~salary for each member in office; and~~

3 ~~(2) on and after July 1, 2006, eleven percent~~
4 ~~of salary for each member in office, except that, from July 1,~~
5 ~~2009 through June 30, 2011, for members whose annual salary is~~
6 ~~greater than twenty thousand dollars (\$20,000), the state~~
7 ~~contribution rate shall be nine and one-half] twenty-five and~~
8 ~~ninety-six hundredths percent of salary for each member in~~
9 office.

10 ~~[B. Twenty-five dollars (\$25.00) from each civil~~
11 ~~case docket fee paid in magistrate court and ten dollars~~
12 ~~(\$10.00) from each civil jury fee paid in magistrate court~~
13 ~~shall be paid by the court clerk to the employer's accumulation~~
14 ~~fund.]"~~

15 SECTION 4. Section 35-6-1 NMSA 1978 (being Laws 1968,
16 Chapter 62, Section 92, as amended) is amended to read:

17 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
18 "CONVICTED".--

19 A. Magistrate judges, including metropolitan court
20 judges, shall assess and collect and shall not waive, defer or
21 suspend the following costs:

22 docket fee, criminal actions under Section 29-5-1 NMSA
23 1978 \$ 1.00;
24 docket fee, to be collected prior to docketing any other
25 criminal action, except as provided in Subsection B

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1 of Section 35-6-3 NMSA 1978 20.00.
2 Proceeds from this docket fee shall be transferred
3 to the administrative office of the courts for
4 deposit in the court facilities fund;
5 docket fee, twenty dollars (\$20.00) of which shall be
6 deposited in the court automation fund [~~and~~],
7 fifteen dollars (\$15.00) of which shall be deposited
8 in the civil legal services fund and twenty-five
9 dollars (\$25.00) of which shall be deposited in the
10 general fund, to be collected prior to docketing any
11 civil action, except as provided in Subsection A of
12 Section 35-6-3 NMSA 1978 72.00;
13 jury fee, ten dollars (\$10.00) of which shall be deposited
14 in the general fund, to be collected from the party
15 demanding trial by jury in any civil action at the
16 time the demand is filed or made 25.00;
17 copying fee, for making and certifying copies of any
18 records in the court, for each page copied by
19 photographic process50.
20 Proceeds from this copying fee shall be transferred
21 to the administrative office of the courts for
22 deposit in the court facilities fund; and
23 copying fee, for computer-generated or electronically
24 transferred copies, per page 1.00.
25 Proceeds from this copying fee shall be transferred

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1 to the administrative office of the courts for
2 deposit in the court automation fund.

3 Except as otherwise specifically provided by law, docket
4 fees shall be paid into the court facilities fund.

5 B. Except as otherwise provided by law, no other
6 costs or fees shall be charged or collected in the magistrate
7 or metropolitan court.

8 C. The magistrate or metropolitan court may grant
9 free process to any party in any civil proceeding or special
10 statutory proceeding upon a proper showing of indigency. The
11 magistrate or metropolitan court may deny free process if it
12 finds that the complaint on its face does not state a cause of
13 action.

14 D. As used in this subsection, "convicted" means the
15 defendant has been found guilty of a criminal charge by the
16 magistrate or metropolitan judge, either after trial, a plea of
17 guilty or a plea of nolo contendere. Magistrate judges,
18 including metropolitan court judges, shall assess and collect
19 and shall not waive, defer or suspend the following costs:

20 (1) corrections fee, to be collected upon
21 conviction from persons convicted of violating any provision of
22 the Motor Vehicle Code involving the operation of a motor
23 vehicle, convicted of a crime constituting a misdemeanor or a
24 petty misdemeanor or convicted of violating any ordinance that
25 may be enforced by the imposition of a term of imprisonment as

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1 follows:
2 in a county with a metropolitan court \$10.00;
3 in a county without a metropolitan court 20.00;
4 (2) court automation fee, to be collected upon
5 conviction from persons convicted of violating any provision of
6 the Motor Vehicle Code involving the operation of a motor
7 vehicle, convicted of a crime constituting a misdemeanor or a
8 petty misdemeanor or convicted of violating any ordinance that
9 may be enforced by the imposition of a term of imprisonment
10 10.00;
11 (3) traffic safety fee, to be collected upon
12 conviction from persons convicted of violating any provision of
13 the Motor Vehicle Code involving the operation of a motor
14 vehicle 3.00;
15 (4) judicial education fee, to be collected upon
16 conviction from persons convicted of operating a motor vehicle
17 in violation of the Motor Vehicle Code, convicted of a crime
18 constituting a misdemeanor or a petty misdemeanor or convicted
19 of violating any ordinance punishable by a term of imprisonment
20 3.00;
21 (5) jury and witness fee, to be collected upon
22 conviction from persons convicted of operating a motor vehicle
23 in violation of the Motor Vehicle Code, convicted of a crime
24 constituting a misdemeanor or a petty misdemeanor or convicted
25 of violating any ordinance punishable by a term of imprisonment

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1 5.00;

2 (6) brain injury services fee, to be collected
3 upon conviction from persons convicted of violating any
4 provision of the Motor Vehicle Code involving the operation of
5 a motor vehicle 5.00;

6 and

7 (7) court facilities fee, to be collected upon
8 conviction from persons convicted of violating any provision of
9 the Motor Vehicle Code involving the operation of a motor
10 vehicle, convicted of a crime constituting a misdemeanor or a
11 petty misdemeanor or convicted of violating any ordinance that
12 may be enforced by the imposition of a term of imprisonment as
13 follows:

- 14 in a county with a metropolitan court 24.00;
- 15 in any other county 10.00.

16 E. Metropolitan court judges shall assess and collect
17 and shall not waive, defer or suspend as costs a mediation fee
18 not to exceed five dollars (\$5.00) for the docketing of small
19 claims and criminal actions specified by metropolitan court
20 rule. Proceeds of the mediation fee shall be deposited into
21 the metropolitan court mediation fund."

22 SECTION 5. APPROPRIATION.--Three million fifty-one
23 thousand dollars (\$3,051,000) is appropriated from the general
24 fund to the department of finance and administration for
25 expenditure in fiscal year 2012 for distribution to the supreme

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1 court, court of appeals, district courts, Bernalillo county
2 metropolitan court and the administrative office of the courts
3 to pay the increased employer contributions. Any unexpended or
4 unencumbered balance remaining at the end of fiscal year 2012
5 shall not revert to the general fund.

6 SECTION 6. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2011.

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