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FISCAL IMPACT REPORT

SPONSOR: Martinez DATE TYPED: 3/12/03 HB 798/aHJC

SHORT TITLE: Maximum Amount for Supersedes Bonds SB

ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
Attorney General’s Office (AG)
LFC Files

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Amendment increases the maximum amount of a supersedes bond filed by the appellant in an appeal of a civil action in order to stay execution of the judgment to fifty million dollars (\$50,000,000). The Amendment further provides that notwithstanding the provisions of subsection A (which sets forth the maximum amount of a supersedes bond) and subsection B (where recovery is for other than a fixed amount of money) if the appellee proves by a preponderance of the evidence that an appellant is dissipating assets, a court shall enter orders that are necessary to protect the appellee and shall require the appellant to post a bond that is equal to the total amount of judgment.

Synopsis of Original Bill

House Bill 798 amends Section 39-3-22 NMSA 1978 to provide for a maximum amount of a supersedes bond filed by the appellant in an appeal of a civil action in order to stay execution of the judgment to twenty-five million dollars (\$25,000,000).

Additionally, House Bill 798 provides that if an appellee proves by a preponderance of the evi-

dence that an appellant is dissipating assets outside the ordinary course of business to avoid payment of a judgment, the court may, in order to protect the appellee, require the appellant to post a bond that is equal to the total amount of judgment when that amount exceeds twenty-five million dollars (\$25,000,000).

Further, House Bill 798 provides that if the decision appealed from, or from which a writ of error is sued out, is for a recovery other than a fixed amount of money, the amount of the bond, if any, shall not exceed twenty-five million dollars (\$25,000,000).

The effective date of this provision is July 1, 2003.

Significant Issues

According to the Administrative Office of the Courts (AOC), SCRA 1986, 1-062 (D) *could* conflict with the additional language in the bill. SCSRA 1986, 1-062 (D) provides that the bond shall be conditioned on the satisfaction of, and compliance with, the judgment in full together with costs, interest and damages for delay if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, interest and damages as the appellate court may adjudge and award.

If further provides that when the judgment is for the recovery of money, the amount of the bond shall be such sum to cover the whole amount of the judgment remaining unsatisfied, plus costs, interest and damages for delay.

If a conflict does occur, the court would have to rule on what takes precedence—the rule or the state statute.

FC/yr/njw