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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/10
 LAST UPDATED 02/01/10 **HB** _____

SPONSOR Wirth

SHORT TITLE Create Additional Judgeships **SB** 6

ANALYST Sanchez, C.

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
Total		\$0.0-\$50.0*	\$0.0-\$50.0*	\$0.0-\$100.0*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

* See Narrative

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Finance and Administration (DFA)
 Public Defender (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 6 creates an additional judgeship in the First Judicial District and in the Doña Ana County Magistrate Court.

The additional district judgeship shall be filled by appointment by the governor pursuant to the provisions of Article 6 of the Constitution of New Mexico.

The additional Doña Ana County Magistrate Court judgeship shall be filled by the general election in 2010, with the term of office starting on January 1, 2011.

SB 6 also provides that if the Act is passed by less than a two-thirds vote of either house of the legislature, the governor shall fill the appointment on or after the effective date, January 1, 2011. The appointed magistrate shall serve until succeeded by a magistrate elected at the general election in 2012.

The bill carries an emergency clause.

FISCAL IMPLICATIONS

The First Judicial District and the Administrative Office of the Courts seek legislation to create two judgeships that require no new general fund appropriations.

According to the AOC, for the last three fiscal years, the First Judicial District Court has had a critical need for a judgeship. Because of this recognized critical need, the Court is asking to convert a current hearing officer position to a new judgeship. Given the limitations of a hearing officer, the Court is confident that it will gain more by having a judge. Hearing officers only make recommendations, while judges decide and issue binding orders. A hearing officer is limited to specific issues; judges have general jurisdiction. A BAR from the Court's General Fund Contractual Services category to the Personal Services and Benefits category will fund the cost difference of approximately \$30,000. This judgeship will require no new General Fund appropriation in FY2011 or thereafter. Creating this "no cost" judgeship will reduce the current additional judges needed by the district to 3.24.

Legislation from the 2009 regular session eliminated a magistrate court judgeship in Tatum (Lea County) on December 31, 2010. According to the AOC, the existing Tatum funding can be transferred to fund the Dona Ana County judgeship (\$110,775), with no need for any new general fund appropriation. The Doña Ana County Magistrate Court currently has five judges and needs 9.14 judges.

According to the Department of Finance and Administration the creation of a new judgeship without an appropriation would put a strain on already reduced resources for services and programs. The creation of a judgeship may require funding for additional staff, supplies, and equipment.

According to the Public Defender, the creation of additional judgeships will require additional staffing and budget for the Public Defender Department. Additional judgeships in the First Judicial District will require the addition of two attorneys and one support staff member and in Doña Ana County, an addition of one attorney and one support staff position. The cost of these positions would be \$181, 000 in the First Judicial District and \$58,500 for Doña Ana County. See attached spreadsheet.

SIGNIFICANT ISSUES

In 2007, the New Mexico Sentencing Commission with the assistance of the National Center for State Courts conducted a workload assessment study for the judiciary, district attorneys, and public defenders. The study indicates a need for 3.58 additional district court judges in the First Judicial District Court and 4.1 additional judges in the Doña Ana County Magistrate Court.

According to the AOC, the Chief Judges Council reviewed all district, metropolitan, and magistrate judgeship requests statewide and considered both the need as determined by the workload assessment study applied to FY 09 filings, as well as cost, additional narrative and testimonial information.

The Judiciary recognizes that it is unlikely given the economic condition that the Legislature will appropriate any General Funds for new judgeships in FY 2011. Therefore, the Judiciary seeks legislation to create these two judgeships that will not require any increase in General Fund appropriations during or after FY 2011.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. The bill may have an impact on the measures of the district and magistrate courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mew