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FISCAL IMPACT REPORT

ORIGINAL DATE 02/22/11
 LAST UPDATED 03/01/11 **HB** 151/aHFL#1

SPONSOR Rehm

SHORT TITLE Certain Court Fine & Fees as Money Judgment **SB** _____

ANALYST Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
NFI	\$1,275.0	\$1,275.0	Recurring	General Fund, State Special Funds, Bench Warrant Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Administrative Office of the District Attorneys (AODA)
 Public Defenders Department (PDD)

SUMMARY

Synopsis of HFL Amendment #1

The House Floor Amendment #1 revises the title to reflect the contents of the bill and limits the costs of collection to 25% of any underlying fines, fees or costs and requires that those amounts remain unpaid for more than ninety days before collection costs be added.

Synopsis of Original Bill

House Bill 151, which is endorsed by the Courts, Corrections and Justice Committee, allows the fine and fee portion of a criminal judgment and sentence issued by a district court to be treated as a money judgment and assigned by contract to a public or private business for collection. The reasonable costs charged by the contactor can be added to the underlying amount owed. The bill also amends existing law that already authorizes metropolitan and magistrate courts to undertake collection efforts through public or private businesses to add reasonable costs of collection of fines and fees owed them to the underlying amount owed.

This bill has a delayed effective date of July 1, 2011.

FISCAL IMPLICATIONS

The AOC reports:

The Metropolitan Court and Magistrate Courts already have processes in place to transmit money judgments to collection agencies. Magistrate and Metropolitan Courts are currently funding these operations via their respective warrant enforcement funds. These funds provide \$100 per case. The Magistrate and Metropolitan Courts use the money to employ personnel, purchase equipment and services, and reimburse law enforcement for service of warrants. Thus, the funds are quickly exhausted in the pursuit of non-compliant defendants.

Collection agencies that specialize in court compliance generally charge 20-35% of the total amount they collect. The fines and fees that may be collected cannot be used to pay the collection agency, so each case has only the balance of the \$100 from the warrant fund to pay for collections after first covering its own costs in in-house efforts (telephone calls, letters, surrender events, tax refund intercept, and targeted law enforcement warrant service). Thus, the courts must make an economic decision about how much to spend beyond the \$100 toward private collection. Cost benefit analysis demonstrates that the fund can only sustain spending an additional \$100 per case, which effectively imposes a \$400 cap on the amount of fines and fees per case that can be referred for collection. Currently, there is \$24 million in uncollected revenue in magistrate court fines and fees alone. If HB 151 becomes law, the cost of collection will be added to the underlying amount owed by defendants, and referrals to collection agencies will no longer be capped.

The cost will be imposed only on defendants who have resisted all in-house efforts to achieve compliance. In addition, by being able to submit cases to collections before a warrant is issued, and not having to fund collection efforts on the \$100 bench warrant fee which is collected only after a warrant is issued, incarceration costs will also be reduced. Further, since many of these defendants live out of state, bench warrants are ineffective in achieving compliance.

Improving compliance with a money judgment through the collection of fines and fees will enhance revenue for drug courts, domestic violence prevention, brain injury treatment, and other vital judicial and executive branch programs. Compliance also reduces court employee furloughs and court closures.

The numbers presented in the table above reflect AOC's estimate that \$1,275,000 may be collected on an annual basis for all district, magistrate and metropolitan courts in the state if HB 151 becomes law. That estimate includes the monies that will be saved by not having to expend state funds to pay for collection agency services.

SIGNIFICANT ISSUES

The AOC advises that many states, including Texas, Iowa, Florida and Indiana, require defendants to pay collection costs in order to maximize compliance efforts and impose respect for court orders. Insisting on compliance with court orders, the AOC notes, preserves the integrity of the judicial system.

The PDD reports that this bill could aid in its efforts to assist clients by providing additional civil remedies to recover unpaid fines, as opposed to the imposition of criminal penalties such as contempt of court and imprisonment being the only remedies available to the courts.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The courts will continue to have to use state monies to fund its efforts to seek defendants' compliance with court- ordered fines and fees.

MD/bym:svb