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FISCAL IMPACT REPORT

01/30/13
ORIGINAL DATE 02/26/13

SPONSOR Cervantes LAST UPDATED 03/07/13 HB _____

SHORT TITLE Traffic Ticket Payment & Reporting SB 131/aSJC/aSFC/aSFI#1

ANALYST Trowbridge

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
None	\$500.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
Unknown*	\$988.0	\$988.0	Recurring	Traffic Citation Administration

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown*	Unknown*	Unknown*	Unknown*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Administrative Office of the Courts (AOC)

Administrative of District Attorneys (AODA)

SUMMARY

Synopsis of Senate Floor Amendment #1

Senate Floor Amendment 1 to 131/aSJC/aSFC does the following:

1. On page 20, line 4, strike “3, 5 through 11 and 13” and insert in lieu thereof “4, 6 through 12 and 14”.
2. On page 20, lines 5 and 6, strike “4 and 12” and insert in lieu thereof “5 and 13”.

These two amendments make Sections 1 through 4, Sections 6 through 12 and Section 14 effective on July 1, 2014; and makes the effective date of Sections 5 and 13 of the act July 1, 2013.

Synopsis of SFC Amendment

The Senate Finance Committee Amendments to SB 131/SFCa/SJCa do the following:

1. Strikes the Senate Judiciary Committee Amendment 1.
2. Inserts the following new section to read: “SECTION 2. [NEW MATERIAL] ACCESS TO RECORDS OF PENALTY ASSESSMENTS.—The Administrative Office of the Courts shall not publish on any public access internet web site the records of a defendant charged with only a penalty assessment if the case is closed. Penalty assessment records are subject to disclosure under the Inspection of Public Records Act.”

Synopsis SJC Amendment

The Senate Judiciary Committee (SJC) amendment to Senate Bill 131 adds new language to the bill in Section 2:

"SECTION 2. [NEW MATERIAL] ACCESS TO RECORDS OF PENALTY ASSESSMENTS.--The administrative office of the courts shall not publish on any public access internet web site the records of a defendant charged with only a penalty assessment unless a bench warrant is issued for the defendant in that case. Penalty assessment records are subject to disclosure under the Inspection of Public Records Act."

The SJC amendment also renumbers the succeeding sections accordingly; strike the wording: “email, telephone number” on page 18, line 10; make a grammatical change; and on page 18, line 19, after the semicolon, insert "and, at the option of the individual charged, an email address or telephone number;"

Synopsis of Original Bill

Senate Bill 131 (SB 131) generally changes the traffic citation process by having all traffic citations sent to the courts instead of some being sent to the Motor Vehicle Division. Currently, a motorist must make a decision on the side of the road as to whether to plead guilty and pay the ticket to the MVD or to go to court to challenge the ticket which is sent to the appropriate magistrate or metropolitan court. SB 131 changes this process so that the motorist need not make a decision on the side of the road. All tickets will be sent to the appropriate court for payment or for a court hearing.

SB 131 (1) amends Sections 35-6-1 and 66-8-116.3 to direct courts to impose a \$4.00 traffic citation administration fee to be collected from persons convicted of traffic offenses; (2) directs courts to remit monthly to the Administrative Office of the Courts (AOC) all traffic citation administration fees; (3) transfers the “Magistrate Courts Operations Fund” to the Fund and then dissolves the “Magistrate Courts Operations Fund” by July 1, 2014; (4) permits the MVD to suspend the driving privileges of persons who fail to timely pay a penalty assessment as directed by the courts; (5) amends the process employed when a person is arrested for violation of a penalty assessment misdemeanor, directing the arresting officer to issue a uniform traffic citation and advise the person of the option to accept and pay the penalty assessment or to appear in court, and directs the officer to submit the penalty assessment citation to the appropriate court within three business days of issuance; (6) labels the uniform traffic citation a “summons,” adds additional contact information to the citation, and makes it a misdemeanor to fail to pay the penalty assessment or appear in court; and (7) makes technical and grammatical changes throughout the bill.

Section 12 contains a \$500 thousand appropriation to the AOC in FY 2014 and FY 2015 to purchase equipment and IT technology to administer the Fund.

SB 131 repeals Section 66-8-117. SB 131 Sections 1-3, 5-11 and 13 are effective July 1, 2014; Sections 4 and 12 are effective July 1, 2013.

FISCAL IMPLICATIONS

The AOC states that eliminating the existing bifurcated process for citations will eliminate the confusion that now results when a driver responds to the wrong entity (MVD or the court). Drivers will know that they must contact the court whether they chose to pay or contest the citation. A positive impact should be increased compliance and collections on citations due to the reduced confusion and because all citations would be subject to the collections and enforcement efforts that exist in courts. Improved collections will benefit the general fund because traffic fines are deposited in the general fund. The AOC estimates revenue from the changes established in SB 131 to be \$988 thousand based on the historical number of citations in metro and magistrate courts and from past fees collected from the MVD.

The AOC indicates that the existing resources for processing traffic citations in courts will have to be augmented for courts to process the increased citations that will come to courts instead of going to the MVD. Because the citations that now go to the MVD are those the driver decided not to contest, most of these citations should not result in increased cases contested in a courtroom. However, a combination of improved technological infrastructure and new personnel will be needed to process the doubling of payable citations that will be processed by court staff. The traffic citation administration fee of \$4.00 converted from the existing magistrate court operations fee of \$4.00 will provide sufficient revenue to fund the needed additional resources. There will be no recurring cost to the general fund. The Administrative of District Attorneys (AODA) expresses doubt as to whether the fee will be sufficient to cover the costs of the new program. The AODA also indicates that creating a new program funded by the new fee and staffed by full-time employees to administer and process traffic court citations is certain to have a fiscal impact. It transfers funding from the magistrate operations fund which has no limitations, other than magistrate operations, to the Traffic Citation Administration Fund for specific uses. Collection of fees for the magistrate court operations fund is already scheduled to end next year. The AODA states that the bill will probably require a change in the uniform traffic citations and that might result in additional costs.

SIGNIFICANT ISSUES

The AOC states that the New Mexico Supreme Court convened the Traffic Reform Committee, of which Justice Charles Daniels served as Chair, to examine ways to improve the operation of the traffic code and elevate compliance. Several recommendations of that process are embodied in traffic reform measures contained in SB 35, SB 36, SB 37, and HB 164. The most significant reform to the process is SB 131.

The Committee overwhelmingly supported the recommendation to have all traffic citations go to courts and not have the existing bifurcated process by which half of the citations go to the MVD.

If citations all go to court and none go to the MVD, the existing court processes for ensuring compliance by drivers will be effective for all citations. Currently, about one-half of all citations are sent to the MVD. For these citations, the agency has no collection mechanism other than license suspension. Citations that go to court are subject to numerous enforcement efforts, including the court's issuance of a summons, court orders for hearings, and ultimately the issuance of a warrant that will result in arrest of the driver the next time stopped for a violation. In addition, courts have staff dedicated to enforcement and collection of traffic fines and fees. Court efforts in addition to the option of issuing a warrant may include phone reminders of court dates; letters seeking compliance in lieu of arrest, warrant forgiveness efforts that result in compliance instead of arrest, and tax refund intercepts to collect outstanding fines and fees.

The AODA indicates that penalty assessment misdemeanors are assessed for most minor traffic violations, including speeding, failure to obey traffic signs, etc. and violations for oversize load and other motor carrier offenses. (See, Sections 66-8-116/116.1/116.2, NMSA 1978). There are prescribed fines depending upon the section violated.

The AODA states that there is an incentive for persons cited to mail in the penalty assessment and avoid payment of several mandatory fees which must be imposed if they have their case decided in court by trial or entry of a plea. (See, Section 35-6-1[A], NMSA 1978). If they choose to pay the penalty assessment when they are cited they sign an agreement to pay and are given an envelope addressed to the Motor Vehicle Division in Santa Fe. Unlike persons cited for “ordinary” misdemeanors under the motor vehicle code (everything that is not a felony or a penalty assessment offense. See, Section 66-8-7, NMSA 1978), no court hearing is scheduled if they have signed the promise to pay. The bill would have persons arrested for penalty assessment misdemeanors forced to choose between a promise to pay the penalty or going to court at a specific date and time. If they had failed to pay and did not appear when scheduled a warrant for their arrest could be issued without any argument that the offenders were unaware that they had to go to court if they did not pay their penalty assessment since it would be specified on their citation.

The AODA maintains that it is unclear if someone could select a court hearing and then decide to pay the penalty assessment before the court hearing was set. The AODA also states that the additional \$4.00 fees assessed for penalty assessment misdemeanors would be dedicated to hiring employees to administer and process traffic citations who could track whether persons had paid or gone to court. Presumably they could help facilitate processes—including issuances of arrest warrants for failure to appear—and reduce the number of people who ignore their legal obligations when cited.

The bill also provides an additional basis for suspension of driver's licenses. Prosecuting persons for suspended licenses (for other reasons) has been difficult because of processes used by the Motor Vehicle Division which were not conclusive that a problem driver had received proper due process before their license was suspended. The bill also provides that if a law enforcement officer does not submit the citation issued for a penalty assessment misdemeanor within three days it is subject to being dismissed with prejudice which might be a problem if an officer is unable to meet that deadline.

PERFORMANCE IMPLICATIONS

The AOC indicates that the courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

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

Courts will be required to develop performance measures relevant to the processing of additional payable citations and to track the efficiency with which courts collect fines and fees from these additional citations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The AOC notes that amendments to the traffic code are in SB 35, SB 36, SB 37, and HB 164. Each of these bills can be separately enacted or not without impact on the others.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The existing bifurcated process for traffic citations will continue, with resulting confusion for drivers, duplication of processing structures at the MVD and the courts, and less efficient enforcement and collection of traffic fines and fees.

TT/blm:svb