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FISCAL IMPACT REPORT

SPONSOR Trujillo ORIGINAL DATE 02/02/21
LAST UPDATED _____ HB 91/aHLLC
SHORT TITLE Increase Metro Court Mediation Fee SB _____
ANALYST Dick-Peddie

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
\$0	\$192.4	\$192.4	Recurring	Metropolitan Court Mediation Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Bernalillo County Metro Court (BCMC)

SUMMARY

Synopsis of HLLC Amendments

The House Local Government, Land Grants, and Cultural Affairs Committee amended House Bill 91 to establish July 1, 2021, as the bill's effective date.

Synopsis of Original Bill

House Bill 91 would amend NMSA 1978, §35-6-1(E) to increase the Bernalillo County Court mediation fee for the docketing of small claims and criminal actions from \$5.00 to \$15.00.

With the proposed amendment to NMSA 1978, §35-6-1, the total cost to file a small claim in the Metropolitan Court would increase from \$77.00 to \$87.00. The additional revenue provided by the increased fee would go to the court's mediation fund for court operation.

FISCAL IMPLICATIONS

Increasing the court mediation fee would increase revenue to the court, which, according to agency analysis provided by the Metropolitan Court, would go entirely towards funding the three full time equivalent (FTE) positions staffing the mediation program. Though the court has

received increased general fund revenue, and begun to “wean” these positions off of fee revenue, revenue from mediation fees have declined more quickly than the court anticipated. The court projects a shortfall in funding the mediation FTE without additional fee revenue to support the program.

The court notes that the mediation fund had a balance of \$150.7 thousand at the start of FY20, but had declined to \$73.6 thousand by the start of FY21, which is insufficient to cover the salary and benefits of the two mediation support staff and one mediation director to run the program, which LFC estimates to cost about \$200 thousand. The public health emergency exacerbated revenue loss to the court, and according to the agency, only \$9,085 remains in the mediation fund as of January 2021.

Bernalillo County Metropolitan Court outlines the declining revenue to the fund below:

The civil court filings for previous fiscal years and the corresponding revenues from the \$5 mediation fee are as follows:

<u>Case filings:</u>	<u>Case revenue from \$5 Mediation Fee:</u>
FY20 18,089	\$89.7
FY19 19,719	\$97.6
FY18 20,472	\$101.1
FY17 18,680	\$92.2

The revenue table reflects the increased revenue the mediation fund would receive if cases continued at this rate, an average of 19,240 cases, multiplied by the \$10.00 increase, for an additional \$192.4 thousand in revenue.

SIGNIFICANT ISSUES

Research from the National Conference of State Legislatures (NCSL) indicates that court fees in general can make the justice system less accessible to poor communities, and lead to undesirable economic outcomes for vulnerable populations. Additionally, research from the National Center for State Courts indicates that fee-funding positions can lead to perverse incentives from employees. In recent years, the Supreme Court of New Mexico has steered away from fee-funding for these reasons, but sponsored HB91 through the Unified Budget Process.

In the same vein, the Courts, Corrections, and Justice interim committee has extensively discussed court fines and fees, and the New Mexico Sentencing Commission has conducted research into reducing and even eliminating fees in the New Mexico justice system.

Finally, even assuming that mediation fees stay steady, the additional revenue provided for by HB91 (\$192.4 thousand) is still shy of the \$200 thousand necessary to fully fee-fund the program, indicating the court will still have a need for additional general found revenue to sustain the mediation program.