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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/13

SPONSOR Papen LAST UPDATED _____ HB _____

SHORT TITLE Judicial Pay Increases Based on Service SB 391

ANALYST Jorgensen

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$733.2	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	\$733.2	\$733.2	\$1,466.4	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 384, Judicial Salary Increases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 391 appropriates \$733.2 thousand from the general fund to the AOC for the purpose of increasing judicial salaries based on tenure. SB 391 will create pay tiers based on seven years increments of service so that: judges with 7 years or less on the bench as of July 1, 2013, would receive only the statutory pay; judges with 7-14 years would receive a 5% increase; judges with 14-21 years would receive a 10% increase; judges with over 21 years would receive a 15% increase.

FISCAL IMPLICATIONS

The appropriation of \$733.2 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY14 shall revert to the general fund.

SIGNIFICANT ISSUES

The AOC has stated that the funds should be appropriated to the Department of Finance and Administration instead of the Administrative Office of the Courts, with rules adopted by the Administrative Office of the Courts to establish retention salary tiers. The Department of Finance and Administration can transfer the funds directly to the Supreme Court, Court of Appeals, each district court, and the magistrate court program instead of the Administrative Office of the Courts working with each court agency and the Department of Finance and Administration to transfer the funds.

The AGO has noted the following concerns:

1. This bill raises constitutional issues under Article IV, Section 27 of the New Mexico Constitution which states that, “[n]o law shall be enacted giving extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this constitution.”
2. It is unclear in the first sentence of Section 2 whether this is a one-time “retention increase” or where a judge who reaches 7 years of service in some future year is also entitled to a “seven-year retention increase.” If the latter, then the bill’s future fiscal impact on the State will be much larger than listed in Section 2.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 384, Increase Judicial Salaries
SB 25, Judicial Retirement Changes
SB 26, Supplemental Retirement Contributions
HB 95, Judicial Retirement Changes
HB 169, Judicial Retirement Contributions

TECHNICAL ISSUES

The AOC has stated that the funds should be appropriated to the Department of Finance and Administration instead of the Administrative Office of the Courts.

NCJ/blm