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FISCAL IMPACT REPORT

SPONSOR Martinez **ORIGINAL DATE** 2/18/19
LAST UPDATED 3/5/19 **HB** _____

SHORT TITLE Transfer of Muni Court Jurisdiction **SB** 173/SFCS

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate but minimal*			Indeterminate but minimal*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See fiscal implications.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

New Mexico Municipal League

SUMMARY

Synopsis of Bill

The Senate Finance Committee Substitute for Senate Bill 173 amends 35-14-1 NMSA 1978 by raising the population threshold that allows municipalities to determine whether the municipality should designate the magistrate court of the county as the court having jurisdiction over the municipal ordinances from a population of 1,500 persons to 10,000 persons. It also requires any designation to occur in places where the municipality is located within 25 miles from the nearest magistrate court. Furthermore, the bill modifies the designation process by requiring the following before a magistrate court may be designated the jurisdiction over municipal ordinances:

- A municipal ordinance jurisdiction advisory committee be created and hold a public hearing, hear testimony, and submit a report of recommendations to the governing body of the municipality;
- The governing body of the municipality to adopt an ordinance upon a three-fourths vote;
- The expiration of the term of the municipal judge;
- And approval of the Supreme Court.

The bill also provides a pathway for municipalities to rescind the jurisdictional changes and reestablish a municipal court by passing an ordinance.

FISCAL IMPLICATIONS

Any fiscal impact on the judiciary would be proportional to the number of municipalities that choose to enter into an agreement with the Supreme Court and designate magistrate courts as having jurisdiction over municipal ordinances. The Supreme Court notes it will not agree to designate magistrate courts as having jurisdiction over municipal ordinances in areas when it will be a significant burden to the state judicial system.

The New Mexico Municipal League is concerned a possible loss of revenue attributable to fines and fees is possible, should a municipality choose to grant the magistrate court authority over municipal ordinances. The fees that will be remitted to the state are currently remitted to the state, such as the court automation fees of \$6, and judicial education fees of \$3. Municipal fees collected by the magistrate court should still be remitted to the municipality according to current statutes. The correction fees of \$20 will be remitted to the municipality according to the Senate Finance Committee substitute for Senate Bill 173.

SIGNIFICANT ISSUES

Existing law authorizes municipalities to designate the magistrate court as the court with jurisdiction over the municipal ordinances provided that the municipality has a population of less than 1,500. Municipalities barred from designating the magistrate court take alternative actions to obtain the assistance of the magistrate court, including repeal of criminal ordinances and the diversion of citations to the state statute instead of the municipal ordinance (see attached repeal of Rio Rancho DWI ordinance). According to AOC, these actions result in “unpredictable and fluctuating caseloads for the municipal and magistrate courts, and prohibit proper planning to ensure continuity of, and the best service to, the citizens of the state.”

No municipality will be required to designate a magistrate court to have jurisdiction over the municipal ordinances. This bill does not impose a choice on a municipality.

As reported by Supreme Court Chief Justice Nakamura in the 2019 “*State of the Judiciary*” report to the Legislature, a survey of all court users was conducted. According to AOC, “One of the most frequent complaints made by court customers is that the courts are confusing, complicated, and difficult to navigate.” Municipalities that exercise this option would simplify case management in their communities, reduce the complexity and confusion of the court system, and avoid scheduling conflicts with law enforcement and other justice partners.

The New Mexico Municipal League notes that:

Municipal courts have jurisdiction on land use, zoning, and animal violations that are governed and enacted by city ordinances in accordance to their local governing city councils; with which magistrate courts are generally unfamiliar. Magistrate judges would now have to be familiar with both the rules of procedure for magistrate courts as well as the same rules for municipal courts. Likewise, magistrate judges would be required to be knowledgeable and familiar with municipal ordinances as well as state laws and county ordinances. It is a very large burden to lay on magistrate judges.