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## FISCAL IMPACT REPORT

SPONSOR: Feldman DATE TYPED: 02/16/01 HB \_\_\_\_\_  
 SHORT TITLE: Zoning Enforcement in Metro Court SB 445  
 ANALYST: Hayes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 258.2				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SJR6, HB215, HB433 and SB238

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	Indeterminate		Recurring	

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC budget files  
 Administrative Office of the Courts (AOC)  
 Bernalillo County Metropolitan Court (BCMC)  
 Attorney General's Office  
 Regulation and Licensing Department

## SUMMARY

### Synopsis of Bill

SB4445 amends Section 3-21-10 NMSA 1978 to allow zoning enforcement by metropolitan court judges and allows metropolitan judges to provide injunctive relief in certain cases. The penalties for violations of these ordinances is increased from \$300 to \$1,000. Maximum imprisonment remains at ninety days.

This bill also appropriates \$258.2 from the general fund to the Bernalillo County Metropolitan Court for the purpose of funding salaries and benefits for one additional judge and support staff, plus to pay for furniture, equipment and supplies. According to language in the bill, the additional judge at BCMC is created specifically to hear municipal and county zoning offenses and complaints.

The additional BCMC judgeship will be filled by appointment by the governor pursuant to Article 6 of the Constitution of New Mexico for the term beginning July 1, 2001.

### Significant Issues

In 1998, the AOC completed and updated an expanded study to provide the legislature with a methodology for determining the needs for additional judgeships – the Weighted Caseload Study. The study assigns a weight for each type of case heard in a court. The weight, expressed in minutes, represents the average amount of judge's time necessary to process a case of that type. Each weight is then multiplied by the number of new cases filed per category.

The Chief Judges Council reviewed all district, metropolitan and magistrate judgeship requests statewide and considered both the need as determined by the Weighted Caseload Study as well as additional narrative and testimonial information. The Weighted Caseload Study shows a need at the Bernalillo County Metropolitan Court for **1.67** additional judges (see attachment). The council voted to support the two requested criminal court metropolitan court judgeships for FY02.

The funding of a metropolitan court judge position for the purpose of hearing municipal and county zoning offenses and complaints is not supported in the *Judiciary Unified Budget* or in the proposed judgeship bill (HB215). The metropolitan court's need is for two criminal judges. The Weighted Caseload Study does not show a need for three judges. The criminal judges at the metropolitan court are randomly assigned to hear municipal and county zoning offenses and complaints. It would be more efficient and beneficial if the criminal judges continued to hear these cases rather than one judge being specifically assigned to hear municipal and county zoning offenses and complaints.

## FISCAL IMPLICATIONS

Of the \$258.2 appropriation contained in this bill, \$217,615 is a recurring expense to the general fund and the remainder, \$40,585, is non-recurring. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

Interestingly, BCMC's response to this bill stated that besides the \$258.2, the court also needs an additional \$200.0 to lease additional office space and to construct a new courtroom, judges office, reception area and staff work area. Given that they have a new courthouse under construction which will double the size of the current courthouse, this additional \$200.0 is *not* required.

In addition to the judgeship costs, this bill increases the fine for zoning offenses and complaints from \$300 to \$1,000. None of the courts or agencies responding to the LFC request for information provided caseload data regarding zoning issues, number of violations per year, amounts collected in prior years, etc. Therefore, the revenue increase due to the increased fine proposed in this legislation can not be estimated at this time.

#### **ADMINISTRATIVE IMPLICATIONS**

Both the Bernalillo County Metropolitan Court and the AOC' analyses stated that cases and workload will not be randomly or equally assigned if the court has a single judge dedicated to hearing only municipal and county ordinances.

#### **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

Relates to HB215, Judgeship bill which requests 2 judges for BCMC based on weighted caseload data. Judges are not designated for type of case or duty in the bill.

Relates to SB238 and HB433, drug court bill, which funds an additional judge for BCMC to preside over drug court operations.

SJR6 amends the Constitution to require the election of all justices and judges in the State of New Mexico-- which conflicts with the appointment of a judge by the governor.

#### **TECHNICAL ISSUES**

Given the current law regarding appointment of judges and in order to be consistent with those laws, it is suggested that Section 34-8A-4.1 be amended to read: *A judge of the Bernalillo County Metropolitan Court for division seventeen shall be appointed and shall serve until the 2002 general election. His successor shall be chosen at the general election and shall hold office until the general election four years later.*

CMH/njw