F I S C A L   I M P A C T   R E P O R T

SPONSOR Stewart
ORIGINAL DATE 01/26/12
LAST UPDATED 01/31/12
HB 72/aHJC

SHORT TITLE Judicial Retirement Changes
SB

ANALYST Daly/Walker-Moran

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
$0.0	$2,999.6	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
$0.0	$3.0*	$3.0	Recurring	General Fund*

(Parenthesis ( ) Indicate Revenue Decreases)
*See Fiscal Implications for data provided by AOC.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Department of Finance & Administration (DFA)
Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 72 adds a new section which amends the section of existing law that creates the “magistrate retirement fund” to delete the reference to docket fees, reflecting the intent of the bill to eliminate those fees as a funding source for magistrate retirement. (This change is consistent with the changes already proposed in HB 72 to the law governing funding of the judicial retirement fund).

Synopsis of Original Bill

House Bill 72, endorsed by the Investments and Pensions Oversight Committee and the Courts, Corrections and Justice Committee, will fund all required employee and employer contributions required under the magistrate and judicial retirement systems as a statutory percentage of salary. HB 72 also changes funding sources for both magistrate and judicial retirement by replacing monies from docket fees with a recurring appropriation from the General Fund.

HB 72 assumes roll-back of the current 1.75% swap of employer contribution swap currently paid by all state employees whose annual salary is greater than $20,000.

Finally, HB 72 appropriates $2,999,600 from the General Fund to DFA for distribution to the supreme court, court of appeals, district courts, Bernalillo county metropolitan courts and AOC to pay the increased employer contributions required by the bill. Any unexpended or unencumbered balance remaining at the end of FY 13 does not revert.

The effective date of this bill is July 1, 2012.

FISCAL IMPLICATIONS

The $3 million in additional revenues reflected in the table above is the estimate provided by AOC of monies generated by docket fees that under existing law fund (along with employer and employee contributions) judicial retirement for magistrate, metropolitan, district and appellate judges. It reports the actual FY 11 docket fee revenue was $2,999,607. On this point, the DFA notes that the general fund will be at risk if docket fees do not increase and salaries rise as employer contributions are based on percentages of salaries.

This bill may be counter to LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY 14 and FY 15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

SIGNIFICANT ISSUES

The AOC points out that although under both the existing funding structure and that proposed in HB 72, full funding for judicial retirement for all judges in the state will not occur, the proposed change in the funding formula contained in HB 72 will allow the PERA to accurately assess the ongoing security of the retirement fund. Relying on docket fee revenue to partially fund judicial retirement, however, makes security harder to determine since those fees are dependent on case filings and that revenue further decreases as a percentage of salary any time there is a salary increase.

The PERA reports:

> For the year ending June 30, 2011, the Magistrate Retirement Fund is 59.75% funded and has a $22.3 million unfunded actuarial accrued liability. The total actuarially required contribution rate necessary to fund the benefits afforded under the magistrate retirement system is 65.85% of magistrate payroll, which exceeds existing rates by 31.14% of payroll.

> For the year ending June 30, 2011, the Judicial Retirement Fund is 56% funded and has a $61.5 million unfunded actuarial accrued liability. The total actuarially required contribution rate necessary to fund the benefits afforded under the judicial retirement system is 56.71% of judicial payroll, which exceeds existing rates by 18.24% of payroll.

Both the AOC and the PERA support the enactment of HB 72. The PERA explains the need for this legislation when it states:

> Under current law, docket fees are the major source of contribution revenue to both the Judicial and Magistrate Retirement Funds and account for approximately 50% of contribution revenue. Docket-fee revenue is related to the volume of judicial and magistrate court activity. Conversely, retirement fund obligations derive from a pension benefit that relates to judicial and magistrate payroll. Historically, PERA's actuaries have indicated that a poor correlation between docket fees and judicial/magistrate payroll exists. PERA's actuaries have consistently recommended that all employer contributions for both the judicial and magistrate retirement funds be related to payroll. HB 72 addresses this recommendation and is essential to the long-term health of these retirement funds.

The PERA continues;

Correlating employer contributions to judicial and magistrate payroll is a positive step in meeting the long-term obligations of the retirement funds. HB 72's proposed statutory contribution rates are insufficient to meet the required statutory contributions necessary to meet the obligations of the funds. The basic funding objective of the retirement funds is to avoid transferring costs of statutory obligations between generations of taxpayers. This objective is met if the funding sources are sufficient to 1) fund costs allocated to the current year on account of service earned by the judiciary (Normal Cost) and 2) fund over a 30-year period the costs of prior years of service credit earned by the judiciary (unfunded actuarial accrued liability or "UAAL").

The increased employee and employer contribution rates proposed by HB 72 are insufficient to fund the long-term pension obligations under the retirement system as a percentage of judiciary payroll:

Fund	**Actuarial Required Contributions (ARC)**	**Current Statutory Contributions (with 1.5% swap)**	**Current Deficiency in Statutory Rate**	**HB 72 Proposed Employer Rate**
JRA	Normal Cost 30.10% UAAL 26.61% ARC 56.71%	Employer 8.75% Docket Fee 18.97% Employee 10.75% Total **38.47%**	(18.24%)	Employer 28.56%
MRA	Normal Cost 31.08% UAAL 34.77% ARC 65.85%	Employer 7.75% Docket Fee 16.21% Employee 10.75% Total **34.71%**	(31.14%)	Employer 24.06%

ADMINISTRATIVE IMPLICATIONS

The AOC, the DFA and the PERA report minor administrative impacts if this bill is enacted.

OTHER SUBSTANTIVE ISSUES

The PERA Board supports the efforts of the Administrative Office of the Courts to initiate steps toward long-term solvency of the Judicial and Magistrate Retirement Funds.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The PERA summarizes the impact of failure to enact this bill:

> Judges covered by the Judicial Retirement Act will continue to pay employee contributions of 7.5% of salary and the state will continue to make employer contributions of 12% of salary on their behalf to the Fund. Docket fees paid to the retirement fund will continue to make up approximately 50% of the contribution revenue. As Judges' pay increases, the deficit between the required contributions to fund the benefit obligations and the actual contributions will continue to grow.
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> Magistrates covered by the Magistrate Retirement Act will continue to pay employee contributions of 7.5% of salary and the state will continue to make employer contributions of 11% of salary on their behalf to the Fund. Docket fees paid to the retirement fund will continue to make up approximately 50% of the contribution revenue. As Magistrates' pay increases, the deficit between the required contributions to fund the benefit obligations and the actual contributions will continue to grow.

MD:EWM/svb