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FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/13

SPONSOR Bandy LAST UPDATED _____ HB 475

SHORT TITLE Additional Judgeships SB _____

ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$1,200.0	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		\$1,200.0	\$1,200.0			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to SB 466, HB 303.

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

House Bill 475 (HB 475) appropriates \$1.2 million from the general fund to the Administrative Office of the Courts (AOC) to add two new judgeships, one in the third judicial district and one in the eleventh judicial district, for primarily water civil cases. At least one judge in each of these judicial districts would be assigned a caseload of at least 50 percent water civil cases.

FISCAL IMPLICATIONS

The appropriation of \$1.2 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year shall not revert to the general fund.

According to the AOC, an appropriation of only \$846,174 from the general fund is actually necessary for salaries and benefits, furniture, supplies and equipment for the two additional judges and their support staff to start July 1, 2013. The AOC estimates for additional judgeships, a total recurring costs of \$773,974 from the general fund and total non-recurring startup costs of \$72,200 from the general fund. According to the AOC, the funds of \$423,087 should be given to each judicial district instead of \$1,200,000 to the AOC.

SIGNIFICANT ISSUES

The Office of the State Engineer (OSE) notes, the New Mexico Supreme Court established a Water Court Division in 2006, in which it designates one judge in each of the state's judicial districts to serve as a Water Court Division judge. The New Mexico Supreme Court has not established a minimum water law caseload per judge, but all water cases are assigned to the designated Water Court judge.

The AOC notes the New Mexico Supreme Court has already designated a statewide water adjudication judge. The New Mexico Supreme Court has recently adopted a proactive approach to efficiently manage and resolve water cases. In 2004, the Supreme Court created a water court structure consisting of a designated water judge in each judicial district. In 2009 the Supreme Court designated a statewide water rights adjudication judge to preside over the adjudications in state court. The statewide adjudication judge provides centralized case management and refers specific matters to a special master as appropriate. This structure has promoted consistency in procedures and resources available to claimants, improved case efficiency, and has ensured consistent judicial decisions in the water rights adjudications.

The AOC reports, the water cases in the 3rd and 11th judicial districts currently constitute significantly less than 50 percent of a judge's caseload. The AOC recommends that the statewide adjudication judge continue to preside over all adjudications and the designated water judge in individual districts continue to hear other water cases that arise. Instead of the new half-time water judgeships, the AOC recommends that the statewide adjudication judge continue to rely on referrals to special masters if the water caseload increases.

The AOC also notes, the New Mexico Sentencing Commission with the assistance of the National Center for State Courts conducted a workload assessment study in 2007 for the judiciary, district attorneys, and public defenders. Based on FY12 case filings, an additional 23 judges are needed based on the courts' workload. The Judiciary is requesting nine critically needed new judgeships in the First Judicial District, Second Judicial District, Third Judicial District, Thirteenth Judicial District, Fifth Judicial District, the Dona Ana County Magistrate Court, and the Bernalillo County Metropolitan Court.

According to the AOC, although there may be a need for an additional judgeship in the Eleventh Judicial District, it is not critically needed, not supported, nor included within the unified budget.

The Chief Judges Council reviewed all district, metropolitan, and magistrate judgeship requests statewide and considered both the need as determined by the workload assessment, as well as cost, additional narrative and testimonial information. According to the AOC, despite the need for 23 judges in the courts statewide (see chart attached), the Judiciary is seeking to add the nine most critical judgeships in FY14, and cannot support the two new judgeships in HB 475.

The Third Judicial District is handling increasing caseloads and is in dire need of the additional judge to be assigned to all types of civil cases. The results of the workload assessment study are attached to this analysis.

However, the AOC cannot support the new judgeship for the Third Judicial District contained in HB 475. The unified budget included a new judgeship in the Third Judicial District to hear all types of civil cases, not 50 percent of a judge dedicated to water civil cases.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the Third and Eleven Judicial Districts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

The AOC notes, in the Third Judicial District Court, the existing judges are laboring to keep up with the civil filings. The additional judgeship in the Third Judicial District is desperately needed to help fill the critical shortage of judgeships that exists in the civil area.

DUPLICATION, RELATIONSHIP

HB 475 is a duplicate of SB 466. HB 475 relates to HB 303 and HB 2.

TECHNICAL ISSUES

The AOC notes, HB 475 does not address the appointment of the two new judges pursuant to the provisions of Article 6 of the Constitution of New Mexico.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The OSE notes, all water cases in the state will continue to be designated to the sole Water Court Division judge.

AMENDMENTS

The AOC proposes the following amendments:

Add a Section 4, starting at line 15, to read:

SECTION 4. TEMPORARY PROVISION – DISTRICT JUDGES – APPOINTMENTS. –The additional district judgeships provided for in this act shall be filled by the appointment by the governor pursuant to the provisions in Article 6 of the constitution of New Mexico.

Amend Section 3, to read:

SECTION 3. APPROPRIATIONS. –

A. The following amounts are appropriated from the general funds to the following agencies for expenditures in fiscal year FY 2014 and subsequent fiscal years for the following purposes:

(1) four hundred twenty-three thousand eighty seven dollars (\$423,087) to the third judicial district court for salaries and benefits and furniture, supplies and equipment for one additional district judge and court staff; and

(2) four hundred twenty-three thousand eighty seven dollars (\$423,087) to the eleventh judicial district court for salaries and benefits and furniture, supplies and equipment for one additional district judge and court staff.

MTM/svb