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FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/13
 SPONSOR Pirtle LAST UPDATED 02/28/13 HB _____
 SHORT TITLE Traffic Ticket County Jurisdiction SB 455/aSPAC/aSJC
 ANALYST Trowbridge

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to SB 35, SB 36, SB 37, SB 131 and HB 164
 Conflicts with HB 178 and SB 131

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)
 Administrative Office of the District Attorneys (AODA)
 Administrative Office of the Courts (AOC)
 Taxation and Revenue Department (TRD)
 Attorney General’s Office (AGO)
 New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 455 does the following:

1. Strikes the Senate Public Affairs Committee Amendment 2
2. On page 1, line 12, strikes “OR DISTRICT”.
3. On page 2, line 1, strikes “or district”.
4. On page 4, line 16, strikes “occurred” and insert in lieu thereof “is alleged to have been committed”.
5. On page 7, line 1, strikes “or district”.

The result is “district” is deleted throughout the bill leaving county jurisdiction and changes “occurred” to “alleged to have been committed” to remove any presumption of guilt.

Synopsis of SPAC Amendment

The following is a summary of the Senate Public Affairs Committee amendment to Senate Bill 455:

1. On page 1, line 12, strike "OFFENSE OCCURRED" and insert in lieu thereof "VIOLATION IS ALLEGED TO HAVE BEEN COMMITTED".
2. On page 4, line 16, after "county", insert "or district" and strike "occurred" and insert in lieu thereof "is alleged to have been committed."

Synopsis of Original Bill

Senate Bill 455 (SB 455) would amend four separate statutes relating to the appearance of persons charged with motor vehicle related misdemeanor offenses before magistrates. First, the bill would amend NMSA 1978, Section 31-1-6 to provide that where a petty misdemeanor citation is issued to an arrestee in lieu of booking that person into jail, the citation must direct the defendant to appear at a court in the county or district where the offense is alleged to have occurred. SB 455 would amend NMSA 1978, Section 35-3-6 to delete language that allows a magistrate to exercise jurisdiction over alleged motor vehicle-related offenses arising in an adjoining magistrate district. The bill would also amend NMSA 1978, Section 66-8-122, which provides in certain instances for an immediate appearance before a magistrate in certain cases of persons arrested for motor vehicle-related misdemeanors. That section would be amended to specify that the appearance is to be before a magistrate in the county where the violation is alleged to have occurred. Finally, SB 455 would amend NMSA 1978, Section 66-8-111 by adding a new subsection that would require that the notice to appear issued by an arresting officer to a person arrested for motor vehicle-related misdemeanor be filed in the county or district in which the offense is alleged to have occurred. The effective date of the enacted bill would be July 1, 2013.

FISCAL IMPLICATIONS

The Administrative Office of the District Attorneys (AODA) reports no fiscal impact on DA offices due to this bill, unless there was a jurisdiction in the state that filed all of its traffic violations in an adjoining county instead of in the county where the violation occurred. The Public Defender Department (PDD) indicates that SB 455 is unlikely to impact public defender caseloads. The Administrative Office of the Courts (AOC) states that there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The Attorney General's Office (AGO) states that in proper recognition of the presumption of innocence in criminal cases, the amendments proposed for Sections 31-1-6 and 66-8-123 both use "in the county or district in which the offense is *alleged to have been* committed" (emphasis added). In contrast, the bill's amendment to Section 66-8-122 regarding a criminal defendant's

initial appearance before a magistrate adds the phrase “in the county where the violation occurred” [Page 4, ll. 15-16] in contravention to the presumption of innocence. The word “alleged” should be inserted prior to the word “violation.”

The AOC reports the bill has the potential to make traffic cases more costly and less efficient both for the officer and for the motorist. For example, a State Police officer who lived in Deming (Luna County) might cite a motorist who also lived in Deming on a state highway in extreme southern Grant County. Both would have to drive to the Bayard or Silver City Magistrate Court instead of having the case heard in Deming in the Deming Magistrate Court. Additionally, the AOC states that the legislation is not a part of the Judiciary’s Unified Budget.

The New Mexico Sentencing Commission (NMSC) indicates that SB 455 will impact the adjudication of traffic offenses throughout the state. Rural jurisdictions may feel the greatest impact since cases would have to be heard in their jurisdiction and could not be moved to be heard in the jurisdiction where the offender resides.

The PDD notes that according to its attorneys who practice in magistrate courts throughout the state, this is not generally an issue because most of their cases involving traffic offenses are already dealt with in the district in which they arose. However, some PDD attorneys indicated that they have seen cases arising in one district being filed in an adjoining district, which then requires a citizen to drive significant distances to appear for their court date. The PDD states that the changes proposed by SB 455 would make it easier for citizens to appear for court dates by ensuring that they do not have to travel to adjoining jurisdictions where the infraction did not occur, but was nonetheless filed.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related Bills: SB 455 conflicts with HB 178 and SB 131. All three bills amend Section 66-8-123 and both SB 455 and HB 178 amend Section 31-1-6.

Proposed amendments to the traffic code are also contained in SB 35, SB 36, SB 37, SB 131 and HB 164. Each of these bills can be separately enacted or not without impact on the others.

TECHNICAL ISSUES

The AOC notes that the bill does not define “district,” although it provides that jurisdiction lies in the county or district where the offense was allegedly committed. Section 31-1-2, the definition section for Article 31-1, lacks a definition of “district.” “Magistrate district” is defined in Section 35-1-2 as being co-extensive with the county in which the court is located. Article 66-8 also appears to lack a definition of “district.” If the bill intends to refer to “magistrate district,” it would be better to use the phrase “magistrate district” instead of the single word “district” in all three statutes being amended.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The AODA states it will be possible to file citations in adjoining counties or districts rather than only in the county or district where the violation occurred.