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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/14  
 LAST UPDATED 1/28/14

SPONSOR Bandy HB 135

SHORT TITLE Additional 3<sup>rd</sup> & 11<sup>th</sup> District Judgeships SB \_\_\_\_\_

ANALYST Jorgensen

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	\$900.0	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 113, and relates to HB 141

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Administrative Office of the Courts (AOC)
- Attorney General's Office (AGO)
- Office of the State Engineer (OSE)
- Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

House Bill 135 creates two additional judgeships, one in the 3<sup>rd</sup> and one in the 11<sup>th</sup> Judicial Districts and proposes creation of district water courts within the 3<sup>rd</sup> and in the 11<sup>th</sup> Judicial Districts. The bill provides that the district water judge shall give water cases priority, and that the water judge shall hear other civil cases in addition to water cases. The district water judges are subject to the same nomination and election requirements as other judges, and must develop substantial expertise in the areas of water law and western water issues.

HB 135 includes an appropriation of \$900 thousand to the Administrative Office of the Courts for the new judgeships in the 3<sup>rd</sup> and 11<sup>th</sup> Judicial Districts

### FISCAL IMPLICATIONS

The bill contains a \$900 thousand appropriation from the general fund to allow for the hiring of the additional judges and accompanying staff. The bill includes an emergency clause which would require immediate appointment of additional judges, but the bill does not include an appropriation to support the creation of the position in fiscal year 2014.

## **SIGNIFICANT ISSUES**

The provisions contained within HB 135 are somewhat duplicative. In 2004, the Supreme Court created a water court structure consisting of a designated water judge in each judicial district. The water judges are civil judges that hear civil cases in addition to water cases. The water judges are required to receive ongoing education regarding water law and regional water issues to ensure that they develop expertise.

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. The AOC has noted that this practice promotes efficiency because case activity is highly variable, and the adjudication judge can rely upon special masters when warranted by the case activity. This structure has promoted implementation of uniform procedures in all state adjudications, improved claimants' access to information, improved case efficiency, and has ensured consistent judicial decisions in the water rights adjudications.

The AOC states that, unlike local water cases that arise in particular judicial districts, adjudications extend geographically to hydrologic boundaries and therefore generally occur in more than one judicial district. Further, the Supreme Court determined that the unique issues presented by adjudications, including the exceptionally large number of claimants, the long duration of the cases, the essential function of court record tracking and analysis, and effecting meaningful notice and case procedures for all claimants, including unrepresented claimants, are most effectively addressed by a single adjudication judge.

## **ADMINISTRATIVE IMPLICATIONS**

HB 135 contains an emergency clause but no appropriation which may result in the creation of unfunded judgeships in the 3<sup>rd</sup> and 11<sup>th</sup> judicial districts in fiscal year 2014.

The OSE has noted that, as drafted, it is unclear whether HB 135 will affect the current judge presiding over the water rights adjudications pending in each of these two judicial districts.

## **CONFLICT, RELATIONSHIP**

HB 135 is a duplicate of SB 113, and is related to HB 141 which creates five additional judgeships, four in district court and one in magistrate court.

## **TECHNICAL ISSUES**

The appropriation should be designated to the 3<sup>rd</sup> and 11<sup>th</sup> Judicial Districts rather than the AOC.

## **OTHER SUBSTANTIVE ISSUES**

The AOC has noted that although there may be a need for additional judgeships in the Third and Eleventh Judicial Districts, they are not critically needed, not supported, nor included within the unified budget.

The General Appropriations Act currently funds four additional district court judgeships. Three out of the four recommended judgeships were created with 2 FTE and an appropriation of \$234 thousand each.