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FISCAL IMPACT REPORT

SPONSOR Culbert ORIGINAL DATE 2/12/15
LAST UPDATED _____ HB 371
SHORT TITLE Bachelor's Degree for Magistrate Judges SB _____
ANALYST A. Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
New Mexico Sentencing Commission (NMSC)
Administrative Office of the District Attorneys (AODA)
Attorney General's Office (AGO)
Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 371 proposes to change the educational requirements for a magistrate court from a high school diploma or equivalent to a bachelor's degree for new judges or for judges who have had a break in service.

FISCAL IMPLICATIONS

HB 371 does not require an appropriation. The bill does not propose to change compensation (\$84,349 annually) with the change in qualifications. The AOC is required to certify that an elected magistrate judge meets the statutory qualifications, including the education requirements. The proposed change would not have a significant impact on the certification process.

SIGNIFICANT ISSUES

According to the AOC, the jurisdiction of New Mexico's magistrate courts includes traffic citations, misdemeanor crimes, and civil disputes up to \$10,000 amount in controversy.

Magistrate Courts adhere to all requirements of the law as well as the rules adopted by the Supreme Court. With the assistance of the Judicial Education Center, the AOC provides training for all new magistrate judges as well as continuing legal education for all magistrate judges annually. New magistrates are assigned an experienced magistrate judge as a mentor until such time as the mentor judge certifies the new judge has the knowledge and experience required to capably execute the duties of office.

The basis for a proposed change in qualifications for magistrates is not known. The most recent report of the Judicial Standards Commission, for FY 2014, shows the Commission received 192 verified complaints, most of which did not result in judicial discipline. Of the verified complaints, 108 were filed against one of the 95 district judges who are required to be attorneys and 46 against one of the 67 magistrate judges. With 70% as many magistrates as district judges, one might expect that complaints about magistrates would be about 75, which is 70% of the 108 filed against district judges. Instead, complaints against magistrates were only 43% of the number of complaints filed against district judges. Although there may be many reasons for this disparity, at least for FY 2014 the data available from the Judicial Standards Commission does not show that a change in magistrate qualifications is needed to address a high level of complaints about the professional performance of magistrate judges.

A very informal survey of magistrate judges showed a lack of interest in changing the qualifications with respect for the wide variety of backgrounds of present magistrates. Magistrates expressed some interest in reviewing the qualifications if justified by a need or to support increased compensation. Many magistrates have post-high school education including about a dozen with law degrees. Those without a college degree are frequently former police officers, court personnel, or from another background that provided experience relevant to very capable service, and often exceptional service, as a magistrate judge. At present, a candidate may have formal education that can include a law degree or may have graduated high school and obtained relevant experience. In either case the voters of a county have the opportunity to elect the judicial candidate they believe is best suited to serve as a magistrate in their community.

The AGO states that New Mexico is unique, as compared to most states, in that it does not require its magistrate judges to hold a higher educational degree or a *juris doctorate* degree. While Arizona, which utilizes Justices of the Peace to address misdemeanors and civil cases of less \$10,000, does not require a law degree or any advance degree, Colorado's County Court judges in larger counties must possess a law degree (in smaller counties, a high school degree is the minimum qualification). Some states like Ohio require their magistrate judges (dubbed County Court judges) to have been a licensed attorney for 6 years. Others, like North Carolina, require their magistrate judges (dubbed district court judges) to simply possess a law degree. Nevada, like New Mexico, makes a distinction regarding the minimum educational requirements to become judge dependant on the population of a given county (100,000 or more require a law degree, while less than require a high school degree).

The NMSC reports that only Virginia requires Magistrate Judges to have a Bachelors degree. In recent years, there have been unsuccessful legislative efforts to require that magistrate judges have a bachelor's degree in the following states: South Carolina, Virginia, West Virginia and New York.

OTHER SUBSTANTIVE ISSUES

The AODA asks if a bachelor's degree in any subject serve a magistrate any better than a high school diploma. It opines that certainly a legal degree should be more helpful and relevant, as has been determined in setting the requirements for Magistrates in the larger population counties. All Magistrates in New Mexico handle the same range of cases. All magistrates receive essentially the same pay and benefits, regardless of education. All magistrates are required to undergo training provided through the AOC. Regardless if a Magistrate comes to a case with the experience or knowledge required to grasp all the issues, they are required to handle it. But, would a non-legal degree make them more proficient at their job?

ABS/aml