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

SPONSOR Trujillo, J/ Trujillo, CA | **ORIGINAL DATE** 02/04/16 | **LAST UPDATED** | **HB** 273

SHORT TITLE Liquor Tax to Court Funds | **SB**

ANALYST Alejandro

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**		
$0	$0	$0	($18,600.0)	($18,800.0)	Recurring	General Fund
$0	$0	$0	$13,800.0	$14,000.0	Recurring	DWI Grant Fund
$0	$0	$0	$2,400.0	$2,400.0	Recurring	Magistrate Drug Court Fund
$0	$0	$0	$2,400.0	$2,400.0	Recurring	District Court Drug Court Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY16	FY17	FY18	3-Year Total	Recurring or Nonrecurring	Fund Affected
$0	$14.0	$0	$14.0	Nonrecurring	TRD Budget

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Attorney General's Office (AGO)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 273 amends the Tax Administration Act to change the distribution of net receipts from the liquor excise tax. Currently, a distribution of 46 percent of the net receipts attributable to the liquor excise tax is made to the local DWI grant fund. House Bill 273 amends the statute, changing that percentage on and after July 1, 2018 to 71.5 percent. The bill also makes a distribution beginning July 1, 2018 of 5 percent of the net receipts attributable to the liquor excise tax to the magistrate drug court fund, and another 5 percent to the district court drug court fund. The bill further amends the statutory provision creating the magistrate drug court fund to include inclusive language regarding “substance abuse services,” and then creates the “district court drug court fund” with a proposed statutory provision that mimics the language of the magistrate drug court fund.

The effective date of this bill is July 1, 2016.

FISCAL IMPLICATIONS

House Bill 273 would reduce general fund revenues by $18.6 million in FY19 and increase revenues to the DWI Grant Fund, Magistrate Drug Court, and District Court Drug Court Funds.

The Administrative Office of the Courts provided the following analysis:

The Local Government Division of the DFA administers the local DWI (LDWI) grant fund. Currently, $5.6 million is carved out of the LDWI annually and used for the following purposes: funding of alcohol detoxification and treatment centers in six counties, $300 thousand for the ignition interlock fund, no more than $600 thousand for LDWI program administration at DFA, and the remainder available to county programs on a competitive grant basis. The legislature has also transferred funds from LDWI to the Administrative Office of the Courts during some fiscal years to support the state’s drug court programs. These LDWI-to-AOC transfers were especially important during the recent recession, as the state’s drug court programs suffered a 31 percent funding cut from FY09 to FY12 and lost several programs during that time. Though the amounts of such fiscal-year transfers have varied, $500 thousand was transferred to the AOC in FY15 and $1 million was transferred in FY16 to support ongoing drug court operations.

After the $5.6 million (and AOC, when applicable) carveout, the money remaining in the LDWI fund is distributed to the counties each year through an algorithm based on gross receipts taxes and alcohol-related injury crashes. The funds are used primarily for county-run programs and services “to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse” (Section 11-6A-3.A.1).

Increased LDWI funding would allow the counties to expand the reach of those programs as well as increase the types of programs and the range of services to substance abusing offenders.

The AOC administers over 50 drug and mental health court programs statewide; 7 are DWI Drug Court programs operating at various magistrate courts around the state, and the remainder operate in the district courts. Drug courts provide a year-long treatment program for non-violent offenders whose repeat criminal activity is driven by underlying drug addiction and/or mental health issues. Current funding of approximately $9.6 million (a combination of general fund in the courts' and AOC's budgets, as well as the LDWI transfer) allows the programs to work with 1,000 participants on any given day, which is down from the $11 million in statewide drug court funding prior to the recession and the 1,200 participants treatment level at that time. Adoption of House bill 273 would lead to $5 million in new funding for the state's drug court programs. National studies calculate that approximately 50 percent of all jail and prison inmates are clinically addicted. As there are over 13,000 inmates in New Mexican jails and prisons annually, the national figure would indicate that over 6,000 of them are clinically addicted. Although not all of them would be eligible for drug court, a conservative estimate is that drug court capacity could be increased three to fourfold to enable diversion of a significant number of such addicted offenders into drug court supervised treatment rather than incarceration. The $5 million in new funding proposed by this bill would allow for a significant treatment expansion to address that need, while saving four to five times that in savings through avoided jail and prison costs.

PERFORMANCE IMPLICATIONS

The AOC also offers that as an alternative to incarceration, drug court performance measures are often compared to those for prison inmates. The AOC collects a wide range of performance measures on the drug court programs statewide, including recidivism rate, graduation rate, employment rate, and cost-per-client-per-day. Drug Courts' 21 percent recidivism rate is twice as good as the 46 percent recidivism rate reported by NMCD, and drug courts' $23 cost-per-client-per-day is almost five times less expensive than the $92.98 cost-per-day for housing inmates. Based on the lower re-offense rate and cost-per-client, the LFC's Results First study (2013) found the state would realize $3 in savings for every $1 invested in drug court programs.

The counties use the LDWI funds for a wide range of educational, preventive, and treatment programs, with a statutory mandate to spend at least 65 percent of the total fund each year on alcohol-related treatment and detoxification programs. It is not clear what part current research on evidence-based practices plays in the selection by the counties of the programs they choose to implement and maintain. It is also not clear what performance measures are collected in support of the efficacy of this diverse set of programs.

TECHNICAL ISSUES

As the majority of drug court programs operate at the district court level, a different distribution between the magistrate and district drug court funds might be appropriate, such as 2.5 percent for the magistrate drug court fund, and 7.5 percent for the district drug court fund.

ADMINISTRATIVE IMPLICATIONS

The AOC indicates that most of the misdemeanor probation services across the State are provided by, or in conjunction with, local DWI programs, through their LDWI-funded county compliance programs. Without these programs, thousands of misdemeanants would likely not be supervised, as NMCD's Adult Probation Officers focus on felony offenders, and the courts do not have the funding or staff to provide these services. If county compliance programs are currently underfunded or in need of expansion, any increase in LDWI funding could be used to support these needed programs.

TRD indicates that this bill has minimal impact on financial distribution business processes (40 hours or less). Within the state's central accounting system (SHARE) new accounts would need to be created to record the new distributions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:

According to the AGO, the following bills conflict with House Bill 273:

- House Bill 194 would amend the distribution from the net receipts attributable to the liquor excise tax to include $41,667 monthly to Class B counties. This raises a potential a potential conflict with House Bill 273 depending on the total net receipts available – it is possible that the $41,667 would make it impossible to make the distribution as contemplated under House Bill 273.
- Senate Bill 212 amends the distribution, extending the distribution of 39% of the net receipts attributable to the liquor excise tax to the lottery tuition fund beyond June 30, 2017, leaving the available percent at 61%, which the distribution proportions in House Bill 273 exceed.
- Senate Bill 230 amends the distribution of liquor excise tax to include a distribution to the lottery tuition fund after July 1, 2018 (22% until June 30, 2019, then 11% until June 30, 2020). This language then conflicts with House Bill 273 which creates a distribution of a total of 81.5% of the net receipts attributable to the liquor excise tax, leaving only 18.5% of the net receipts available after July 1, 2018.

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