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FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/17
LAST UPDATED 3/14/17 **HB** 131/aHSIVC/aSJC/aSFC

SPONSOR Maestas Barnes

SHORT TITLE Court Dispute Resolution Fee Scale **SB** _____

ANALYST Downs

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
NFI	\$131.7	\$131.7	Recurring	Fund Balance

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Senate Finance Committee Amendment

The Senate Finance Committee amendment to House Bill 131 struck the Senate Judiciary Committee amendment and subsection B in its entirety, and inserted an entirely new section B to say, “A judicial district may establish an alternative dispute resolution program by court rule approved by the Supreme Court. Parties shall pay the cost of the alternative dispute resolution program pursuant to a sliding fee scale approved by the Supreme Court. The sliding fee scale shall be based on ability to pay. The fee shall be paid to the district court to be credited to the fund.” The amendment did not change the original substance of the bill. Additionally, the amendment also moved subsection A to begin before the colon.

Synopsis of Senate Judiciary Committee Amendment

The Senate Judiciary amendment restructured the new material in subsection B, which formerly read, “the district court may require the parties to pay a fee for services rendered through an alternate dispute resolution program,” to now read, “the district court may require the parties who have agreed to participate in an alternative dispute resolution program to pay a fee for services rendered.”

Synopsis of State Government, Indian and Veteran’s Affairs Committee Amendment

The State Government, Indian and Veteran’s Affairs Committee amendment to House Bill 131 added back a sentence that was struck originally, making it clear that the service fees for mediation are collected only in judicial districts that have established alternative dispute resolution programs.

Synopsis of Original Bill

House Bill 131 amended Section 34-6-45 NMSA 1978 to allow district courts the discretion to charge the recipients of alternative dispute resolution programs based on ability to pay on a sliding fee scale approved by the Supreme Court. In addition, House Bill 131 corrected a citation in Subparagraph A, eliminating the local rule requirement and allowing all district courts to collect the \$15 fee.

FISCAL IMPLICATIONS

According to AOC, the sliding fee scale would have a proportional fiscal impact depending on the number of recipients using alternative dispute resolution programs. Sliding fee scale revenue would be applied to the expense of operating the dispute resolution program(s) and services. Five district courts have not established a fund. If those five courts collect the \$15 fee that is currently authorized, the cumulative additional revenue is estimated at \$131.7 thousand (not accounting for indigent waivers), though those district courts would incur some additional administrative costs in managing the funds.

SIGNIFICANT ISSUES

According to AOC, the proposed fee structure in House Bill 131 replicates the structure in the Domestic Relations Mediation Act, which provides for both a fee and a service payment pursuant to a sliding fee scale for child custody mediation services. AOC also stated,

“Alternative dispute resolution programs are proven to save time and money. The Bernalillo County Metropolitan Court (BCMC) has provided mediation for general civil cases for over 30 years and reports that settlements are reached in approximately 80 percent of the cases that go to mediation. In addition, mediated cases in BCMC are resolved over 30 days sooner than non-mediated cases, according to 2015 data. Similar results are reported by the magistrate court mediation program, which offers mediation for general civil cases in six courts. In the magistrate court mediation program, resolution is reached over 60 days sooner than non-mediated cases according to 2016 data. The compliance rate for both BCMC and magistrate court programs is over 85%, so participants that reach agreements are less likely to return to court to file enforcement actions. Indigent and low-income litigants would have equal access to services at no charge or for a small fee.”