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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/17

SPONSOR Ely LAST UPDATED _____ HB 285

SHORT TITLE Magistrate and Metro Court Warrant Enforcement Fees SB _____

ANALYST Downs

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
Minimal	Minimal	Minimal	Recurring	Warrant Enforcement fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)

Administrative Office of the Courts (AOC)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Bill

House Bill 285 increases the bench warrant administrative fee from \$100 upon issuance of the warrant, to \$200 for the Bernalillo County Metropolitan Court and magistrate courts.

FISCAL IMPLICATIONS

The Administrative Office of the Courts reported, “The total revenue generated as a result of enactment of HB 285 is not expected to increase from current levels, because pending Supreme Court rule changes applicable to magistrate courts and the Bernalillo County Metropolitan Court will significantly narrow the number of defendants who receive a bench warrant.”

The Public Defender Department reported there will not be a fiscal impact as a result of this bill, though if it results in more work to “clarify the status of indigent defendants,” the department could find the need for more resources.

SIGNIFICANT ISSUES

The Public Defender Department reported that at times, failure to appear can be innocent, for example, if the summons never reaches the defendant. According to the department, “there are already a large number of fees that cannot be waived attached to such convictions and increasing the warrant enforcement fee could increase nonpayment problems.” The department indicated that when a defendant cannot afford fees, he or she can serve time in jail to pay it off. If the time in jail is doubled with the fee, this could increase costs to the counties and have negative impacts on the defendants.

To address this issue, the New Mexico Supreme Court is attempting to reduce the number of defendants who are incarcerated for traffic violations and failure to pay fees by considering new rules. The proposed rules would require courts to ensure the defendants understand their fiscal responsibilities and would also require the court to determine ability to pay and provide ample opportunities for the defendant to comply.

The Administrative Office of the courts provided the following commentary on the warrant enforcement program:

The existing fee structure assessing \$100 has been in place since 1996, despite two decades of increasing court costs (including salaries, benefits, and supplies) related to the work of the Administrative Office of the Courts warrant enforcement program. In addition to validating defendant demographic data, warrant enforcement program clerks prepare a warrant for signature and copies for filing, law enforcement, and the defendant. All documents relating the failure to comply (including failure to appear or to pay) are mailed to the defendant. Clerks then audit the files, enter defendant information into the automated dialer system, begin mailing postcards and follow-up letters with information on how to avoid arrest and become compliant. Files are then prepared for submission to the state tax intercept program or 3rd party collection agency and targeted for safe surrender events.

A reasonable increase in fees allows the program to continue to fulfill the primary obligations of the fund, which include personnel (approximately 16 full-time employees in the Metropolitan Court and approximately 30 full-time employees in the Magistrate courts), equipment, and services. Fees also provide for the secondary obligation of the Warrant Fee Fund, which is reimbursement to law enforcement agencies for the expense of serving warrants. Additionally, the Warrant Fee Fund allows the courts to continue to support other court operations where appropriate.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Administrative Office of the Courts writes on the failure for House Bill 285 to pass, “Depletion of the warrant funds and the associated contribution to the Metropolitan and Magistrate Courts will occur. The depleted warrant fund will eliminate the possibility of increasing alternatives and outreach to defendants. Without the ability to innovate and provide defendant education and outreach, the only remaining outcome is arrest and incarceration.”