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FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/17
 LAST UPDATED 3/16/17 HB _____

SPONSOR SRC _____

SHORT TITLE Statutory Appellate Jurisdiction, CA SJR 1/SRCS/aHJC _____

ANALYST Downs _____

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$50.0-\$100.0	NFI	\$50.0-\$100.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General’s Office (AGO)
 Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of House Judiciary Committee Amendment

The House Judiciary Amendment of the Senate Rules Committee substitute for Senate Joint Resolution 1 struck section 1 in its entirety, the part of the resolution that would have amended Article 6, Section 2 of the constitution, giving the Supreme Court jurisdiction over district court cases as provided by law. This amendment leaves appeals to be “as provided by law.”

Synopsis of Senate Rules Committee Substitute

Senate Joint Resolution 1 as substituted by the Senate Rules Committee proposes to amend the state constitution by removing restrictions that currently limit the ability of the Legislature to enact statutory adjustments to processes for appealing court decisions, stating that appeals shall be taken “as provided by law.”

FISCAL IMPLICATIONS

According to the Administrative Office of the Courts, the resolution would have no fiscal impact on the judiciary because it simply lays the groundwork for the legislature to enact speedier, streamlined, and less costly appeals processes. If it is passed as a constitutional amendment by

the voters in 2018, the legislature could, for example, direct appeals from Bernalillo County Metropolitan Court directly to the Court of Appeals without an intermediate ruling by the district court, saving expenses by all parties involved in appeals.

The Attorney General indicated in the event of approval by voters, the caseload at the Court of Appeals may increase as criminal appeals resulting in death or life imprisonment, including interlocutory appeals, would be heard in the first instance by the Court of Appeals instead of the Supreme Court.

Section 1-16-13 NMSA 1978 requires the Secretary of State to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The Secretary of State is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. Legislative Finance Committee staff estimate each constitutional amendment may cost between fifty and one hundred thousand dollars in printing and advertising costs based on 2016 actual expenditures.

TECHNICAL ISSUES

The Administrative Office of the Courts provided the following analysis on the technicalities of the proposed constitutional amendment:

When the New Mexico Court of Appeals was created in 1965, Article 6, Section 29 of the constitution provided that the Court of Appeals' jurisdiction would be "as provided by law." As a result, the Legislature has been able to adjust the appellate jurisdiction of the Court of Appeals over the years. In contrast, constitutional language restricts the authority of the Legislature to regulate appellate jurisdiction relating to other courts in ways that have resulted in unnecessarily costly and inefficient consequences.

For example, because no courts below the district courts were courts of record when the 1910 Constitution was drafted, appeals from those courts had to go to the district court for a de novo trial. Article 6, Section 13 of the constitution requires that the district court has "appellate jurisdiction of all cases originating in inferior courts and tribunals in their respective districts," and Article 6, Section 27 requires that "[a]ppeals shall be allowed in all cases from the final judgments and decisions of the . . . inferior courts to the district courts."

Because of those constitutional restrictions on appellate processes from courts inferior to the district court, when the Legislature created the Metropolitan Court in 1979 and made it a court of record for civil cases and some criminal prosecutions, the Legislature had no authority to direct on-record appeals from that court to the Court of Appeals. Instead, appeals had to go first to the district court before going to the Court of Appeals and possibly the Supreme Court. The result is that for both small claims civil cases and specified misdemeanor cases, appeals not only have to be taken first to the district court for on-record review, but also may receive multiple levels of court reviews, while more serious cases receive less. Much of the work in the unnecessary layers of appeal is conducted at public expense as prosecutors, public defenders, judges, and court staff, who dedicate time and resources to each level of appellate review.

The constitution also contains language directing life sentence to go directly to the Supreme Court (Article 6, Section 2), which prevents the Legislature from directing those appeals to the Court of Appeals, the primary error-correcting appellate court of the state. The Supreme Court, primarily a precedent-setting rather than an error-correcting court, reports that many of those direct appeals involve issues so insubstantial and so clearly governed by established judicial precedents that the parties waive oral argument and the cases are decided by non-precedential decisions.

The Administrative Office of the District Attorneys stated the amendment may not create the efficiencies the Administrative Office of the Courts envisions, writing, “If the legislature determines that certain cases should be heard by the Court of Appeals it could extend the time spent on appeals because once the case has been decided by the Court of Appeals, the defendant may seek review by the Supreme Court by filing a petition for writ of certiorari, and if the Supreme Court agrees to hear the case the appeal would be heard a second time.”

According to the Attorney General, Section 34-5-8(A) (3) NMSA 1978 provides that the Court of Appeals has jurisdiction to review criminal actions “except those in which a judgment of the district court imposes a sentence of death or life imprisonment.” This statute would need to be amended to be consistent with the proposed constitutional change mentioned above. Additionally, House Bill 72, which would reinstate the death penalty, specifically provides that a sentence of death shall be automatically reviewed by the Supreme Court.

JD/al/sb/jle