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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/18
 SPONSOR Trujillo, CA / Ruiloba LAST UPDATED 02/15/18 HB 35/aSf1#1
 SHORT TITLE Liquor Excise Tax Distributions SB _____
 ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20	FY21	FY22		
	(\$1,091.8)	(\$3,697.7)	(\$3,683.2)	(\$3,654.1)	Recurring	General Fund
	\$1,091.8	\$1,522.6	\$1,516.6	\$1,504.6	Recurring	Local DWI Grant Fund
	\$0.0	\$2,175.1	\$2,166.6	\$2,149.5	Recurring	Drug Court Fund

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal			Minimal	Nonrecurring	Taxation and Revenue Department

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses NOT Received From

Taxation and Revenue Department (TRD)

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of SFI#1 Amendment

The Senate Floor #1 Amendment to House Bill 35 delays by one year the 5 percent funding to the drug court fund but leaves the local DWI fund revenue distribution at the higher rate.

Synopsis of Original Bill

House Bill 35 changes the distributions of liquor excise tax revenues. It makes permanent the majority of a temporary increase in the distribution to the local DWI grant fund, keeping it at 45 percent instead of scaling back to 41.5 percent beginning in FY19. This is a decline of 1 percent from the distribution in FY18. It also adds a new distribution of 5 percent to a new drug court fund administered by the Administrative Office of the Courts (AOC) beginning in FY18. The fund shall be used to offset client service costs of drug court programs, consistent with standards approved by the Supreme Court, and money remaining in the fund at the end of a fiscal year shall not revert to the general fund.

The effective date of this bill is July 1, 2018.

FISCAL IMPLICATIONS

The distribution calculations were performed by LFC staff and based on the December consensus revenue estimates for liquor excise taxes. The charts below show the current and proposed revenues.

	Current Revenues				
	FY18	FY19	FY20	FY21	FY22
General Fund	\$23,500.0	\$25,300.0	\$25,200.0	\$25,100.0	\$24,900.0
Local DWI	\$20,230.6	\$18,124.5	\$18,053.6	\$17,982.6	\$17,840.7
Muni in Class A County	\$249.0	\$249.0	\$249.0	\$249.0	\$249.0
AOC Drug Court Fund	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Total	\$43,979.6	\$43,673.5	\$43,502.6	\$43,331.6	\$42,989.7

	Proposed Revenues				
	FY18	FY19	FY20	FY21	FY22
General Fund	\$23,500.0	\$24,208.2	\$21,502.3	\$21,416.8	\$21,245.9
Local DWI	\$20,230.6	\$19,216.3	\$19,576.2	\$19,499.2	\$19,345.4
Muni in Class A County	\$249.0	\$249.0	\$249.0	\$249.0	\$249.0
AOC Drug Court Fund	\$0.0	\$0.0	\$2,175.1	\$2,166.6	\$2,149.5
Total	\$43,979.6	\$43,673.5	\$43,502.6	\$43,331.6	\$42,989.7

	Difference				
	FY18	FY19	FY20	FY21	FY22
General Fund	\$0.0	-\$1,091.8	-\$3,697.7	-\$3,683.2	-\$3,654.1
Local DWI	\$0.0	\$1,091.8	\$1,522.6	\$1,516.6	\$1,504.6
Muni in Class A County	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
AOC Drug Court Fund	\$0.0	\$0.0	\$2,175.1	\$2,166.6	\$2,149.5
Total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

AOC provided the following analysis.

The Local Government Division of the Department of Finance and Administration (DFA) administers the local DWI (LDWI) grant fund. Per Section 11-6A-3.C NMSA 1978, \$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 also transferred funds from LDWI to AOC 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, \$1 million was transferred in FY16, and \$1.6 million was transferred in FY17 and FY18 to support ongoing drug court operations.

After the \$5.6 million (and AOC, when applicable) carve-out, 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 NMSA 1978).

Should this bill pass, the 5 percent recurring distribution from the liquor excise tax to the AOC for drug courts will presumably replace the current set-aside of \$1.6 million from the Local Government Division distribution. With the Legislature eliminating the transfer from the LDWI fund to the AOC, a net increase to the LDWI fund would be realized. 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.

AOC administers over 50 drug and mental health court programs statewide. Seven are DWI drug court programs operating at various magistrate courts around the state, two are operated by the Bernalillo County Metropolitan Court, and the remainder operate in the district courts. Drug courts provide a yearlong treatment program for non-violent offenders whose repeat criminal activity is driven by drug addiction and/or mental health issues. Current funding of approximately \$9.5 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 950 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.

The increase of funding to AOC for drug courts would not only maintain current drug court programs, but also allow for an enhancement of both program capacity and infrastructure quality. National studies calculate that approximately 50 percent of all jail and prison inmates are clinically addicted. There are about 13 thousand inmates in New Mexico jails and prisons, and national statistics indicate that over 6,000 of them are clinically addicted. Although not all of them are eligible for drug court, a conservative estimate is that drug court capacity could be increased two to threefold to enable diversion of a significant number of such addicted offenders into drug court supervised treatment rather than incarceration. Further, AOC has partnered with the NMDOT Traffic Safety Division to target exceptionally high risk jurisdictions with DWI drug courts; DWI drug courts currently operating or initiated using federal dollars will require state funding to continue. Additionally, the quality-enhancing peer review and certification projects as well as training and technical assistance to the 50 or more drug courts require financial investment.

PERFORMANCE IMPLICATIONS

The following performance analysis was also provided by AOC.

As an alternative to incarceration, drug court performance measures are often compared to those for prison inmates. 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' 19 percent recidivism rate is extraordinarily better than the 46 percent recidivism rate reported by the Corrections Department, and drug courts' \$24 cost-per-client-per-day is more than four times less expensive than the \$102.72 cost-per-day for housing inmates. Based on the lower recidivism rate and cost per client, LFC's Results First study recently calculated that the state would realize \$8.60 in savings for every \$1 invested in adult drug court programs and \$5.40 for every \$1 invested in juvenile drug court programs.

The counties use the LDWI funds for a wide range of educational, preventive, screening / tracking, domestic violence, law enforcement, probation-type, 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. Each component funded must adhere to rules in the DFA guidelines.

ADMINISTRATIVE IMPLICATIONS

There would likely be a minimal administrative burden for TRD to update the distribution formulas.

Does the bill meet the Legislative Finance Committee tax policy principles?

- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.
- 5. Accountability:** Preferences should be easy to monitor and evaluate

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