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FISCAL IMPACT REPORT

SPONSOR Campos ORIGINAL DATE 2/1/2018
 LAST UPDATED _____ HB _____

SHORT TITLE 8th Judicial District Additional Attorney SB 224

ANALYST Torres

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	\$100.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the 2018 General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)

Responses Not Received From

Administrative Office of the District Attorneys (AODA)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

SB 224 would make an appropriation of \$100 thousand from the general fund to the Eighth Judicial District Attorney’s Office for expenditure in the hiring of one attorney FTE.

FISCAL IMPLICATIONS

SB 224 appropriates \$100 thousand from the general fund for one attorney. Under the current NM District Attorney Salary Schedule, the 8th Judicial District Attorney could hire a prosecutor for a minimum salary of \$49,980, or a minimum cost of \$62,054, including benefits. The highest paid attorneys that are not deputy district attorneys are at most paid a salary of \$80 thousand or a total cost of \$101.3 thousand, with benefits. The cost to hire an attorney, with the exception of deputy attorneys, is within this range.

The appropriation in SB 224 is for FY19, which would require the hired attorney's position to be terminated by June 30, 2019 if additional funding is not appropriated. It may be difficult to hire a term attorney in the 8th district.

The Public Defender Department states that an equivalent position “would be a mid-level felony capable attorney (Associate Trial Attorney). An Associate Trial Attorney's mid-point salary including benefits in Taos is \$99,660.29. Recurring LOPD statewide operational costs per attorney would be \$2,300.00 with start-up costs of \$3,128.00.” The hiring of an additional attorney at the 8th district attorney's office would increase the workloads of the local public defender department office proportionally.

SIGNIFICANT ISSUES

The 8th Judicial District Attorney's office currently has an average attorney caseload of 358. The average for the state is 314.

The Public Defender Department adds that “fairness and constitutional mandates dictate that if the district attorney gets another attorney, the LOPD should, as well. There is no constitutional right to a prosecutor, but there most certainly is a constitutional right to a defense lawyer. Yet according to PDD staff, the Public Defender in the Eighth Judicial District has 3 attorneys with massive caseloads, and three support staff, whereas the District Attorney has 8 attorneys and around two dozen support staff. There are five contract attorneys who work part time with [the PDD] in the Eighth Judicial District.”

PERFORMANCE IMPLICATIONS

The additional attorney should improve performance in the 8th Judicial District Attorney's office.

The PDD contends that “further unbalancing the justice system in the Eighth Judicial District could result in a breakdown of the system and challenges to the constitutionality of indigent representation of accused criminals and juveniles.”

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