

LFC Requester: _____

**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date March 8, 2019
Bill No: SB173S

Sponsor: Senate Finance Committee
Substitute
Short Title: Transfer of Muni Court
Jurisdiction

Agency Name and Code: Administrative Office of the District Attorneys (AODA) 264
Number:
Person Writing: Gail MacQuesten
Phone: 310-1723 Email: gailmacquesten@Gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB224
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB173s amends Section 35-14-1 NMSA 1978, the statute addressing the creation of municipal courts. It uses the “most recent” federal decennial census (rather than the 1980 census) to determine whether a municipal court is established. It also establishes a new procedure under which qualifying municipalities may designate the magistrate court as the court having jurisdiction over municipal ordinances, and a procedure for revoking that designation.

A municipality qualifies to make such a designation if:

- The municipality is not governed by home rule, territorial or special charter;
- The municipality has a population fewer than ten thousand persons in the most recent federal decennial census; and
- The municipal court is located 25 or fewer miles from the nearest magistrate court.

To start the process, the municipality may, by resolution, express its intent to designate the magistrate court as the court having jurisdiction over municipal ordinances. Within 15 days from the adoption of a resolution, the governing body of the municipality shall create a “municipal ordinance jurisdiction advisory committee” composed of the mayor, a member of the governing body, a municipal judge, the chief of police, and three members of the public. The committee shall hold at least one public hearing on the issue, and submit a report (including recommendations) to the governing body of the municipality.

The governing body may then, subject to approval by the supreme court, adopt an ordinance upon a three-fourths majority vote to designate the magistrate court a having jurisdiction over municipal ordinances. (An ordinance shall become effective only upon supreme court approval and the expiration of the term of the municipal judge in office on the date of the supreme court’s approval of the ordinance.)

A magistrate court designated to have jurisdiction over municipal ordinances shall, with respect to municipal ordinances, remit monthly to the state the court automation and judicial education fees collected pursuant to Section 35-14-11(B) NMSA 1978 as a result of enforcement of municipal ordinances, and remit monthly to the municipality the corrections fee collected pursuant to that section as a result of enforcement of municipal ordinances.

A municipality may re-establish the municipal court as the court having jurisdiction over municipal ordinances by passing an ordinance rescinding the designation. Alternatively, if the governing body receives a petition signed by at least 20% of the registered voters who voted in the last municipal election for the office of mayor, it may convene a municipal ordinance jurisdiction advisory committee (as described above) and indicate its assent to re-establishment of the municipal court by ordinance.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

There are no significant fiscal implications for the district attorneys.

SIGNIFICANT ISSUES

SB173s allows qualifying municipalities to designate the magistrate court as the court having jurisdiction over municipal ordinances. Under the current statute, only municipalities with a population of one thousand five hundred persons or less in the last federal decennial census have that option.

However, that designation may not take place without an agreement between the supreme court and the municipality. Under the current statute, the low population municipalities who can make that designation do not need supreme court approval. Now, all such designations require supreme court approval.

Note that although SB173s makes this option available to all municipalities (provided they get supreme court approval) it does not require any municipality to designate the magistrate court as the court having jurisdiction over municipal ordinances.

PERFORMANCE IMPLICATIONS

If more municipalities choose to designate the magistrate court as the court having jurisdiction over municipal ordinances, it may simplify case management and help avoid scheduling conflicts.

Magistrate courts taking on jurisdiction over municipal ordinances will have to become familiar with municipal ordinances.

ADMINISTRATIVE IMPLICATIONS

See Performance Implications, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB224 amends statutes governing metropolitan courts and magistrate courts to make those courts into “courts of record” for felony charges for which the prosecuting authority has requested a hearing to deny bail.

TECHNICAL ISSUES

Amended paragraph D of Section 35-14-1 is not clear regarding when supreme court approval must be sought. It provides that the governing body may, subject to approval by the supreme court, adopt an ordinance upon a three-fourths' majority vote. (That suggests that the governing body must obtain supreme court approval before putting the proposed ordinance up for vote.) The next sentence, however, says that an ordinance adopted shall become effective only upon supreme court approval (which suggests that the supreme court reviews the ordinance after adoption to determine if it will approve it). It might be clearer to simply say that the governing body may adopt an ordinance upon a three-fourths' majority vote, and that the ordinance becomes effective only upon supreme court approval.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None proposed.