MEASURE NUMBER:SB 256STATUS:A EngrossedSUBJECT:Court Fee/Reductions/EfficienciesGOVERNMENT UNIT AFFECTED:Oregon Judicial Department; Public Defense ServicesCommission;Department of Justice; Local GovernmentPREPARED BY:John BordenREVIEWED BY:Robin LaMonte and Doug WilsonDATE:April 29, 2009

<u>2009-2011</u>

2011-2013

## **EXPENDITURES:** See Analysis

**REVENUES:** See Analysis

**EFFECTIVE DATE:** On passage

**LOCAL GOVERNMENT MANDATE:** This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**ANALYSIS:** This measure allows the Judicial Department to: (a) raise fee revenue and removes statutory restriction on some existing fees; (b) implements some General Fund reductions; (c) implements cost avoidance actions; and (d) repeals select statutory requirements. Some of the major provisions of this measure are outlined below.

## Fee and Other Revenue

Section 1 of this measure gives the Chief Justice of the Oregon Supreme Court broad authority to establish fees for the use of electronic applications in the courts. The measure does not place any limit on the amount of fee that the Chief Justice could impose. Typically, a fee is limited to the actual cost of the program for which it supports. The measure does not specify where such revenue is to be deposited or for what purposes it is to be used. Legislative Counsel has noted that the Department requires statutory authority to continue existing fees or institute new electronic application fees. The measure does not require Legislative review or approval of any Chief Justice established fees.

This section has a substantial fiscal impact. In absence of this measure, the Department would lack the authority to continue charging users of the Oregon Judicial Information Network various fees, which currently total approximately \$3.4 million. Additionally, the Department had tried to institute new fees for its eCourt Program (transaction; copy recovery; and document viewing charges). These were later suspended out of concern that the Department lacked the legal authority to impose such fees. The re-establishment of such fees would have a General Fund impact to other state agencies such as the Public Defense Services Commission and the Department of Justice as well as provide a source of Other Funds for the Department.

Other fee proposals include, but may not be limited to:

- Section 23 a new renewal fee for shorthand reporters;
- Section 32 Appellate and Administrative Copy and Certification Services Fees, which removes statutory limits and thereby allows the Chief Justice to establish fees under SB 271;
- Section 33 Settlement Conference fee;

• Section 34 – Record Search fee.

The measure would give the State Court Administrator warrant authority to establish certain debts (i.e., fines, fees, assessments, and restitution) for collection fees and assessments owed the courts. The Department expects to increase collections through increased use of garnishments. According to the Department, this will generated approximately \$1.7 million a biennium, of which the Department would retain approximately eight percent for its Collections Program with the remaining funds distributed according to statute.

## **General Fund Reductions**

Section 4 and 5 of the measure expands the use of the State Court Facilities Security Account, which is dedicated to improving court facility security and training at, for example, the Supreme Court Building, Department of Justice Building, county court buildings, and municipal courts. This measure diverts these funds for other purposes to include: securing court communications, data, information, and records systems, as well as providing physical security in buildings. The Legislative Fiscal Office is concerned that the measure lacks explicit authority under section 4(2) authorizing the expenditure of funds for securing court communications, data, information, and records systems.

Section 27-28 establishes the payment level for the third and subsequent days of jury service for grand and trial jurors in circuit courts at \$10 a day. Currently the juror per diem is \$10 per day for the first two days and \$25 per day thereafter. This section would reduce the \$25 to \$10 per day for all days of service. The fiscal impact is approximately \$1,200,000 General Fund per biennium. This particular item is included in the Department's 2009-11 30% General Fund reduction plan.

The following provisions would result in an indeterminate amount of General Fund savings:

- Section 9 repeals ORS 3.016, which requires the 6<sup>th</sup> Judicial District (Umatilla and Morrow Counties) to sit in four designated cities, as caseload requires (Pendleton, Hermiston, Milton-Freewater, and Heppner). This allows the district to consolidate Umatilla County Circuit Court operations, and allows potentially all judicial district operations (except as noted in Section 12) to undertake further administrative consolidation. This would result in administrative savings for the Department.
- Section 12 allows judicial districts that contain more than one county or sit in more than one location to consolidate court administration functions in a single location for filing, copying, and inspecting documents; for receipting funds, for pretrial proceedings and probation violations; and for trials in all but certain criminal proceedings.
- Section 15-21 gives the Department the discretion to set up, continue, and discontinue family court programs and advisory committees, depending on available funding and on constitutional, statutory, and other priorities. Section 21 eliminates the Family Law Account and the requirement for the State Court Administrator to develop training materials and certain hearings on temporary custody of children in abuse-prevention cases. Any remaining funds are assumed to be transferred to the General Fund.
- Sections 22–26 modify, reorganize, and repeal provisions on certified shorthand reporter certification, testing, and fees to give the State Court Administrator flexibility to offer this program, and to set policies and fees.

## Cost Avoidance/Cost Shift Actions

The measure contains the following cost avoidance initiatives, which would result in an indeterminate amount of General Fund savings:

- Section 2 Statutory Time Limits statutory timelines would yield so the court can first meet constitutional timelines at risk;
- Section 6 allows the Chief Justice to set policies on Judicial Conference meetings;

- Section 8 repeals the Justice and Municipal Court Registry;
- Section 38 removes the Department's responsibility for continuing legal education for nonlawyer justices of the peace;
- Section 40 amends ORS 137.547 to delete all but subsection (1) to give the Chief Justice flexibility to work with the courts and stakeholders to develop more workable rules on consolidating probation violations. The current complex statutory requirements discourage consolidation of probation violation proceedings.
- Section 39 removes Department's responsibility for Grand Jury inspection of correctional facilities; and
- Section 40 allows the Chief Justice to consolidate probation violation proceedings.