

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7681

BILL NUMBER: HB 1777

NOTE PREPARED: Feb 23, 2005

BILL AMENDED: Feb 22, 2005

SUBJECT: Judicial Compensation.

FIRST AUTHOR: Rep. Foley

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

STATE IMPACT	FY 2005	FY 2006	FY 2007
State Revenues		20,580,167	20,580,167
State Expenditures		20,581,099	20,581,099
Net Increase (Decrease)		(932)	(932)

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It increases the annual salaries of local judges and appellate court judges.
- B. It provides for the Judicial Salaries Fee to be deposited in the state General Fund.
- C. It establishes a judicial salaries fee of: (1) \$22 to be collected in certain civil actions and certain criminal, infraction, and ordinance violation actions; and (2) \$15 to be collected in small claims actions.
- D. It requires 100% of the Judicial Salaries Fees collected to be deposited in the state General Fund except for fees collected by small claims, city, and town courts. It provides that small claims, city, and town courts retain 25% of the Judicial Salaries Fees collected by the courts.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) This bill would increase the salaries of 593 court officers by varying amounts.

The following table shows the proposed salary increases.

		No. of Officers	Salaries			
			Current	Proposed	Increase	% Increase
Justices, Judges, and Other Court Officers	Supreme Court Justices	5	\$115,000	\$143,195	\$28,195	25%
	Court of Appeals Judges	16	\$110,000	\$139,951	\$29,951	27%
	Trial Court Judges	301	\$90,000	\$121,122	\$31,122	35%
	Magistrates	49	\$72,000	\$96,898	\$24,898	35%
	Juvenile Court Referees	17	\$30,607	\$55,505	\$24,898	81%
Prosecuting Attorneys	Full-Time	71	\$90,000	\$121,122	\$31,122	35%
	Part-Time at 66%	9	\$59,400	\$79,941	\$20,541	35%
	Part-Time at 60%	10	\$54,000	\$72,673	\$18,673	35%
Deputy Prosecuting Attorneys	Full-Time	72	\$67,500	\$90,842	\$23,342	35%
	Deputies at 66%	22	\$44,550	\$59,956	\$15,406	35%
	Deputies at 60%	21	\$40,500	\$54,505	\$14,005	35%
Total Number		<u>593</u>				

Increasing the salaries of trial court judges will also increase the salaries of other court officers which are linked in statute.

- The salaries of magistrates are defined in statute as 80% of the salary of a trial court judge (IC 33-23-5-10).
- The salaries of juvenile court magistrates are also 80% of the salary of trial court judges, but the county pays \$41,393 of the total salary (IC 33-38-5-7). The county share would remain unchanged.
- The salaries of the prosecuting attorneys are the same as the salaries of the judges of the circuit court (IC 33-14-7-5).
- Deputy prosecuting attorneys receive 75% of the salaries of prosecuting attorneys (IC 33-39-6-2).

Prosecuting attorneys may elect to work part-time. If they do, then their salary will either be 60% or 66% of the salary of a full-time prosecuting attorney, depending on whether there are correctional facilities or state mental facilities located in the county in which they serve.

The total cost of this proposal includes the judicial officers' increased salaries and the subsequent increase in the state's contribution to Social Security, FICA, life and disability insurance premiums, and retirement programs. The impact of this bill on the state General Fund is expected to be offset with revenue generated through the Judicial Salaries Fee created by this bill and the added income tax revenue. (See *Explanation of State Revenues*).

Net Effect on State General Fund -- The impact on the state General Fund is described in the following table.

Net Effect On State General Fund			
Judicial Officer	Expense Item	FY 2006	FY 2007
Justices, Judges, and Magistrates	Salaries	\$11,680,950	\$11,680,950
	Life and Disability Insurance	\$308,377	\$308,377
	Social Security and Medicare	\$274,342	\$274,342
	Judges' Retirement Fund	\$2,977,059	\$2,977,059
Prosecuting Attorneys and Deputies	Salaries	\$4,894,868	\$4,894,868
	Life and Disability Insurance	\$129,225	\$129,225
	Social Security and Medicare	\$237,458	\$237,458
	Prosecuting Attorneys' Retirement Fund	\$78,820	\$78,820
Additional Expenditures:		\$20,581,099	\$20,581,099
Added Revenue	Court Fees	\$20,016,589	\$20,016,589
	Added Income Tax Revenue	\$563,578	\$563,578
Additional Revenue:		\$20,580,167	\$20,580,167
NET EFFECT ON STATE GENERAL FUND:		(\$932)	(\$932)

The bill also changes a formula in IC 33-37-7-9 to provide an additional \$1,484,523 semi-annually (or \$2,969,044 annually) to the Judges' Retirement Fund. The other funds listed in the chapter will receive a nominal increase in revenue.

Semi-Annual Deposits Into Court-Related Programs Under IC 33-37-7-9					
Funds:	Current Law		Proposed Change		Difference
	Percent	Distribution	Percent	Distribution	
Family Violence & Victim Assistance	11.08%	\$742,832	9.07%	\$743,077	\$245
Indiana Judges' Retirement	25.21%	\$1,690,143	38.75%	\$3,174,666	\$1,484,523
Law Enforcement Academy Building	3.52%	\$235,990	2.89%	\$236,769	\$779
Law Enforcement Training	14.19%	\$951,334	11.62%	\$951,990	\$656
Violent Crime Victims Compensation	16.50%	\$1,106,202	13.51%	\$1,106,832	\$629
Motor Vehicle Highway	26.95%	\$1,806,797	22.06%	\$1,807,307	\$509
Fish and Wildlife	0.32%	\$21,454	0.27%	\$22,120	\$667
IN Judicial Center Drug & Alc. Programs	2.23%	\$149,505	1.83%	\$149,926	\$421
TOTALS	100.00%	\$6,704,257	100.00%	\$8,192,686	\$1,488,429

Explanation of State Revenues: (Revised) Added revenue to the State General Fund would come from two sources: a Judicial Salaries Fee and more state income tax from the added salaries that the judicial officers would be paying. New revenue would also be deposited into the State User Fee Fund from the Judicial Salaries Fee charged to persons filing cases in Marion County Small Claims Courts.

Judicial Salaries Fee – For civil filings, juvenile cases, felony convictions, misdemeanor convictions, infractions, and ordinance violation actions in trial courts and city and town courts, \$22 would be collected. For small claims cases in the state's trial courts and Marion County Small Claims Courts, a fee of \$15 would be assessed at filing.

The percentage of revenue collected from this fee that would be deposited into the state General Fund depends on the court from which the fee is assessed:

- 100% of the revenue collected from the state's trial courts would be deposited in the state General Fund;
- 75% of the revenue collected from the city and town courts in Indiana would be deposited in the state General Fund;
- 75% of the revenue collected from the nine Marion County Small Claims Courts would be deposited in the State User Fee Fund.

This fee is expected to generate approximately \$20.0 M each year for the state General Fund.

Estimated New Revenue Generated by Judicial Salaries Fee and Estimated Revenue By Case Category Deposited into the State General Fund and the State User Fee Fund				
	State General Fund			State User Fee Fund
	<u>Courts of Record</u>	<u>City and Town Courts</u>	<u>Total Revenue</u>	<u>Marion County Small Claims Court</u>
Felonies and Misdemeanors	\$1,044,081	\$359,650	\$1,403,731	
Infractions	\$8,586,057	\$2,202,563	\$10,788,620	
Ordinance Violations	\$1,171,492	\$212,288	\$1,383,780	
Juvenile	\$313,996		\$313,996	
Civil Plenary and Tort	\$1,896,830	\$185,520	\$2,082,350	
Small Claims	\$2,601,745		\$2,601,745	\$711,470
Domestic Relations	\$739,757		\$739,757	
Probate and Others	\$702,361	\$249	\$702,610	
Totals	<u>\$17,056,319</u>	<u>\$2,960,270</u>	<u>\$20,016,589</u>	<u>\$711,470</u>

State Income Tax – This additional income that these judicial officers would receive would be subject to the 3.4% state Income Tax. Based on the estimated increase in salaries, the state would collect an additional \$563,578 in income taxes in both FY 2006 and FY 2007.

Added Revenue from State Income Tax				
		FY 2006		FY 2007
Justices, Judges & Magistrates		\$11,680,950		\$11,680,950
Prosecuting Attorneys & Deputies	+	\$4,894,868	+	\$4,894,868
Salary Increase		\$16,575,818		\$16,575,818
State Income Tax Rate	x	3.4%	x	3.4%
Added Income Tax Revenue		<u>\$563,578</u>		<u>\$563,578</u>

Net Effect on State User Fee Fund -- An additional \$711,000 would be deposited each year into the State User Fee Fund from the fees collected from the Marion County Small Claims Courts. Ultimately, this additional

revenue would be deposited in the Judicial Technology and Automation Project Fund.

The following table shows how revenue that is deposited in the State User Fee Fund is distributed. Twice a year, \$1,288,000 is transferred from the State User Fee Fund into the state funds shown in the table below. *The balance that remains in the State User Fee Fund is then transferred to the Judicial Technology and Automation Project Fund.* Consequently, any additional revenue that is deposited in the State User Fee Fund will be deposited in the Judicial Technology and Automation Project Fund.

Funds Receiving Revenue From the State User Fee Fund		
<u>Fund</u>	<u>Code Cite</u>	<u>Percent Received</u>
Alcohol and Drug Countermeasures Fund	IC 9-27-2-11.	14.98% of \$1.228 M.
Drug Interdiction Fund	IC 10-11-7	8.42% of \$1.228 M.
Drug Prosecution Fund	IC 33-39-8-6	4.68% of \$1.228 M.
Corrections Drug Abuse Fund	IC 11-8-2-11.	5.62% of \$1.228 M.
State Drug Free Communities Fund	IC 5-2-10-2.	22.47% of \$1.228 M.
Indiana Department of Transportation	IC 8-23-2-15.	7.98% of \$1.228 M.
Family Violence and Victim Assistance Fund	IC 12-18-5-2.	20.32% of \$1.228 M.
Indiana Safe Schools Fund	IC 5-2-10.1	15.53% of \$1.228 M.
Judicial Technology and Automation Project Fund	IC 33-24-6-12	Remaining balance

The following shows the revenue that has been deposited in the State User Fee Fund between FY 1998 and FY 2004.

Revenue Deposited in State User Fee Fund							
<u>FY</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Revenue	\$2,621,925	\$2,744,422	\$2,549,049	\$2,934,576	\$3,955,653	\$7,033,060	\$9,219,381

Explanation of Local Expenditures:

Explanation of Local Revenues: Clerks in city and town courts and the Marion County Township Small Claims courts would be permitted to retain 25% of the Judicial Salaries Fee. The following table estimates this new revenue.

Estimated New Revenue Generated for City and Town Courts and the Marion County Township Small Claims Courts from the Judicial Salary Fee	
City and Town Courts Revenue	\$986,700
Marion County Small Claims Courts	\$237,160

State Agencies Affected: Supreme Court Justices, Court of Appeals Judges, Office of State Court Administration.

Local Agencies Affected: Trial Courts, Prosecuting Attorneys, City and town courts.

Information Sources: *2001, 2002 and 2003 Indiana Judicial Reports.*

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