

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6821

BILL NUMBER: SB 363

NOTE PREPARED: Mar 30, 2005

BILL AMENDED: Mar 29, 2005

SUBJECT: Judicial Salaries.

FIRST AUTHOR: Sen. Broden

FIRST SPONSOR: Rep. Foley

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

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

- A. It increases salaries of justices, judges, prosecuting attorneys, deputy prosecuting attorneys, and certain magistrates.
- B. It provides for salary adjustments in years in which the General Assembly does not enact an increase.
- C. It establishes an initial judicial salaries fee of: (1) \$15 to be collected in certain civil actions and certain criminal, infraction, and ordinance violation actions; and (2) \$10 to be collected in small claims actions. The bill also provides for increases in the judicial salaries fee as salaries increase.
- 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.
- E. It changes the name of the Judicial Administration Fee to the Public Defense Administration Fee, increases the fee from \$2 to \$3, and changes the name of the Judicial Insurance Adjustment Fee to the Judicial Administration Fee, increases the amount of the fee from \$1 to \$2, and requires the amount to be deposited in the state General Fund. It provides for budget augmentation as necessary. It repeals the Judicial Branch Insurance Adjustment Account.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Provisions A and B* would increase the salaries of 593 court officers by varying amounts. The added expenditures for each fiscal year beginning in FY 2006 would be at least \$13 M with additional salary expenditures depending on the salary increases received by executive branch employees in the same or similar salary range.

Provision A -- 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	\$133,600	\$18,600	16%
	Court of Appeals Judges	16	\$110,000	\$129,800	\$19,800	18%
	Trial Court Judges	301	\$90,000	\$110,500	\$20,500	23%
	Magistrates	49	\$72,000	\$88,400	\$16,400	23%
	Juvenile Court Referees	17	\$30,607	\$47,007	\$16,400	54%
Prosecuting Attorneys	Full-Time	71	\$90,000	\$110,500	\$20,500	23%
	Part-Time at 66%	9	\$59,400	\$72,930	\$13,530	23%
	Part-Time at 60%	10	\$54,000	\$66,300	\$12,300	23%
	Full-Time	72	\$67,500	\$82,875	\$15,375	23%
Deputy Prosecuting Attorneys	Deputies at 66%	22	\$44,550	\$54,698	\$10,148	23%
	Deputies at 60%	<u>21</u>	\$40,500	\$49,725	\$9,225	23%
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 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	\$7,695,500	\$7,695,500
	Life and Disability Insurance	\$203,161	\$203,161
	Social Security and Medicare	\$180,727	\$180,727
	Added PERF Contributions for Magistrates	\$78,064	\$78,064
	Judges' Retirement Fund	\$1,785,904	\$1,785,904
Prosecuting Attorneys and Deputies	Salaries	\$3,224,240	\$3,224,240
	Life and Disability Insurance	\$85,120	\$85,120
	Social Security and Medicare	\$156,413	\$156,413
	Prosecuting Attorneys' Retirement Fund	\$47,371	\$47,371
Added Transfer to Public Defense Fund		\$1,000,000	\$1,000,000
Additional Expenditures:		<u>\$14,456,500</u>	<u>\$14,456,500</u>
	Judicial Salaries Fee	\$14,082,567	\$14,082,567
	Public Defense Administration Fee	\$1,073,128	\$1,073,128
	Judicial Administration Fee	\$1,073,128	\$1,073,128
	Added Income Tax Revenue	\$371,271	\$371,271
Additional Revenue:		<u>\$16,600,094</u>	<u>\$16,600,094</u>
NET EFFECT ON STATE GENERAL FUND:		<u>\$2,143,594</u>	<u>\$2,143,594</u>

The bill also changes a formula in IC 33-37-7-9 to provide an additional \$889,869 semi-annually (or \$1,779,737 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	9.78%	\$743,007	\$175
Indiana Judges' Retirement	25.21%	\$1,690,143	33.96%	\$2,580,012	\$889,869
Law Enforcement Academy Building	3.52%	\$235,990	3.11%	\$236,273	\$283
Law Enforcement Training	14.19%	\$951,334	12.53%	\$951,930	\$596
Violent Crime Victims Compensation	16.50%	\$1,106,202	14.57%	\$1,106,913	\$711
Motor Vehicle Highway	26.95%	\$1,806,797	23.79%	\$1,807,376	\$579
Fish and Wildlife	0.32%	\$21,454	0.29%	\$22,032	\$578
IN Judicial Center Drug & Alc. Programs	2.23%	\$149,505	1.97%	\$149,665	\$160
TOTALS	100.00%	\$6,704,257	100.00%	\$7,597,209	\$892,952

Provision B – The additional expenditures that would result from this bill would depend on the salary increase granted to other state employees. The following table shows added net expenditures for each 1% increase. The additional expenditures would be somewhat offset by the additional income tax revenue. Between FY 2001 and 2005, salary adjustments for state employees in the executive branch ranged from no salary increase in 2002 to an increase of 4% in 2001.

Net General Fund Expenditures for Salary Increases of Judicial Officers Based on Percentage Adjustments					
Percent Adjustment:	1%	2%	3%	4%	5%
Justices, Judges, and Other Court Officers	\$360,283	\$720,566	\$1,080,848	\$1,441,131	\$1,801,414
Prosecuting Attorneys and Deputies	\$152,156	\$304,312	\$456,468	\$608,624	\$760,780
Net Additional Income Tax Revenue	(\$16,482)	(\$32,964)	(\$49,446)	(\$65,928)	(\$82,410)
Total Expenditures	\$495,957	\$991,914	\$1,487,870	\$1,983,827	\$2,479,784

Raising these salaries by 1% is estimated to increase salary expenditures by \$512,000. These costs include increased salaries and the subsequent increase in the state's contribution to Social Security, FICA, and life and disability insurance premiums.

Estimated Increase in State Expenditures By 1% Increase in Salaries of Justices and Judges		
Justices, Judges, and Other Court Officers	Salaries	\$343,210
	Life and Disability Insurance	\$9,061
	Social Security and Medicare	\$8,012
	Judges Retirement Fund	\$0
Prosecuting Attorneys	Salaries	\$141,552
	Life and Disability Insurance	\$3,737
	Social Security and Medicare	\$6,867
	Pros. Attys. Retirement Fund	\$0
Additional Expenditures		\$512,439

[Note: Actuarial projections assume little short-term impact on either the Judges Retirement Fund or the Prosecuting Attorneys Retirement Fund if the annual increase is less than 5%.]

Each year after FY 2006 when salaries are increased, the Judicial Salaries Fee would be increased by \$1.

Explanation of State Revenues: (Revised) Added revenue to the state General Fund would come from four sources: a Judicial Salaries Fee, the Public Defense Administration Fee, the Judicial Administration Fee, and more state income tax from the added salaries that the judicial officers would be paying.

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, \$15 would be collected. For small claims cases in the state's trial courts and Marion County Small Claims Courts, a fee of \$10 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 \$14.0 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			Total Revenue
	Courts of Record	City and Town Courts	Marion County Small Claims Court	
Felonies and Misdemeanors	\$711,873	\$245,216		\$957,089
Infractions	\$5,854,130	\$1,501,748		\$7,355,878
Ordinance Violations	\$798,744	\$144,742		\$943,486
Juvenile	\$214,088			\$214,088
Civil Plenary and Tort	\$1,293,293	\$126,491		\$1,419,784
Small Claims	\$1,734,497		\$632,418	\$2,366,915
Domestic Relations	\$504,380			\$504,380
Probate and Others	\$478,883	\$170		\$479,053
Totals	\$11,589,888	\$2,018,367	\$632,418	\$14,240,673

Changing the Judicial Administration Fee to the Public Defense Administration Fee – The Judicial Administration Fee is charged in all cases involving civil, criminal, noncivil, and small claims cases. This fee would be renamed the Public Defense Fee and increased from \$2 to \$3. This one dollar increased fee is estimated to increase revenue generated by this fee by \$1.07 M each year.

Changing the Judicial Insurance Adjustment Fee to the Judicial Administration Fee – This fee would be increased from the current one dollar to two dollars, the account would be eliminated, and the account balance would be transferred to the State General Fund. This dollar increase is expected to increase revenue to the State General Fund by \$1.07 M. Revenue from the Judicial Insurance Adjustment Fee is currently deposited in the Judicial Branch Health Care Adjustment Account (IC 33-38-5-8.2) for reimbursement to judges and prosecuting attorneys.

State Income Tax – This additional income that 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		\$563,578		\$563,578

Approximately \$16,000 would be collected by the state in Individual Adjusted Gross Income taxes for each 1% of additional salaries resulting from this bill. The tax rate is 3.4%.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Judicial Officer Salaries* -- Counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) would collect more revenue because of the salary increases. The amount would likely be small and depend on the number of judicial officers in the county.

(Revised) *Judicial Salaries Fee* -- Cities and towns with city and town courts and the Marion County Township Small Claims Courts would be permitted to retain 25% of the judicial salaries fees that they would collect. The estimated revenue that the city and towns and Township Small Claims Courts is estimated in the following table.

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	\$672,789
Marion County Small Claims Courts	\$158,104

State Agencies Affected: Office of State Court Administration.

Local Agencies Affected: Counties imposing local option income taxes.

Information Sources: Office of State Court Administration.

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