

1 HOUSE BILL NO. 61

2 INTRODUCED BY WISEMAN

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE DISTRICT COURT AND SUPREME COURT
 6 FEES BEING DEPOSITED TO THE JUDGES' PENSION TRUST FUND BE DEPOSITED INSTEAD TO THE
 7 STATE GENERAL FUND; INCREASING THE STATE GENERAL FUND CONTRIBUTION AND THE STATE
 8 SPECIAL REVENUE CONTRIBUTION TO PROVIDE FOR THE ACTUARIALLY REQUIRED FUNDING OF THE
 9 JUDGES' RETIREMENT SYSTEM; AMENDING SECTIONS 3-2-404, 19-5-404, AND 25-1-201, MCA; AND
 10 PROVIDING AN EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 **Section 1.** Section 3-2-404, MCA, is amended to read:

15 **"3-2-404. Disposition of fees.** Except as otherwise provided by law, ~~three-fourths of~~ all fees
 16 collected by the clerk must be paid into the state treasury and ~~shall~~ must be credited to the general fund,
 17 ~~and the remaining one-fourth of the fees shall be paid to the public employees' retirement division of the~~
 18 ~~department of administration to be credited to the Montana judges' retirement system account."~~

19
 20 **Section 2.** Section 19-5-404, MCA, is amended to read:

21 **"19-5-404. Contributions by state.** (1) ~~The~~ Except as provided in subsection (2), the state of
 22 Montana shall contribute monthly to the pension trust fund a sum equal to ~~6%~~ 38.19% of the
 23 compensation of each member. ~~In addition, the clerk of each district court shall transmit 68% of certain~~
 24 ~~filing fees as required under 25-1-201(2) and that portion of the fee for filing a petition for dissolution of~~
 25 ~~marriage and a motion for substitution of a judge specified in 25-1-201(4) and (6) to the state, which shall~~
 26 ~~first deposit in the pension trust fund an amount equal to 34.71% of the total compensation paid to district~~
 27 ~~judges and supreme court justices who are covered by the judges' retirement system and then deposit the~~
 28 ~~balance in the state general fund. The clerk of the supreme court shall pay one-fourth of the fees collected~~
 29 ~~under 3-2-403 to the division to be credited to the pension trust fund.~~

30 (2) The state of Montana shall contribute monthly from the renewable resource grant and loan

1 program account in the state special revenue fund to the judges' pension trust fund an amount equal to
2 ~~34.71%~~ 38.19% of the compensation paid to the chief water court judge."

3
4 **Section 3.** Section 25-1-201, MCA, is amended to read:

5 **"25-1-201. Fees of clerk of district court.** (1) The clerk of the district court shall collect the
6 following fees:

7 (a) at the commencement of each action or proceeding, except a petition for dissolution of
8 marriage, from the plaintiff or petitioner, \$80; for filing a complaint in intervention, from the intervenor,
9 \$80; for filing a petition for dissolution of marriage, ~~a fee of~~ \$120; and for filing a petition for legal
10 separation, ~~a fee of~~ \$120;

11 (b) from each defendant or respondent, on appearance, \$60;

12 (c) on the entry of judgment, from the prevailing party, \$45;

13 (d) for preparing copies of papers on file in the clerk's office, 50 cents ~~per~~ for each page for the
14 first five pages of each file, ~~per~~ for each request, and 25 cents ~~per~~ for each additional page;

15 (e) for each certificate, with seal, \$2;

16 (f) for each oath and jurat, with seal, \$1;

17 (g) for search of court records, 50 cents for each year searched, not to exceed a total of \$25;

18 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts,
19 the fee for entry of judgment provided for in subsection (1)(c);

20 (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

21 (j) for transmission of records or files or transfer of a case to another court, \$5;

22 (k) for filing and entering papers received by transfer from other courts, \$10;

23 (l) for issuing a marriage license, \$30;

24 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
25 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
26 the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

27 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative
28 of the estate of a nonresident decedent, \$55;

29 (o) for filing a declaration of marriage without solemnization, \$30;

30 (p) for filing a motion for substitution of a judge, \$100.

1 (2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the
2 district court must be deposited in and credited to the district court fund. If no district court fund exists,
3 that portion of the fees must be deposited in the general fund for district court operations. The remaining
4 portion of the fees must be remitted to the state ~~to be deposited as provided in 19-5-404~~ general fund.

5 (3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage
6 without solemnization, ~~\$14~~ \$23.60 must be deposited in and credited to the state general fund, and \$6.40
7 must be deposited in and credited to the county general fund, ~~and \$9.60 must be remitted to the state to~~
8 ~~be deposited as provided in 19-5-404~~.

9 (4) Of the fee for filing a petition for dissolution of marriage or legal separation, ~~\$40~~ \$75 must be
10 deposited in the state general fund, ~~\$35 must be remitted to the state to be deposited as provided in~~
11 ~~19-5-404~~, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20
12 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must
13 be deposited in the general fund for district court operations.

14 (5) (a) Before the percentages contained in subsection (2) are applied and the fees deposited in the
15 district court fund or the county general fund or remitted to the state, the clerk of the district court shall
16 deduct from the following fees the amounts indicated:

17 (i) at the commencement of each action or proceeding and for filing a complaint in intervention,
18 as provided in subsection (1)(a), \$35;

19 (ii) from each defendant or respondent, on appearance, as provided in subsection (1)(b), \$25;

20 (iii) on the entry of judgment, as provided in subsection (1)(c), \$15; and

21 (iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment
22 of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as
23 provided in subsection (1)(m), \$15.

24 (b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the
25 county general fund for district court operations unless the county has a district court fund. If the county
26 has a district court fund, the money must be deposited in that fund.

27 (6) The fee for filing a motion for substitution of a judge, as provided in subsection (1)(p), must
28 be remitted to the state ~~to be deposited as provided in 19-5-404~~ in the state general fund.

29 (7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court
30 fund. If no district court fund exists, fees must be deposited in the general fund for district court operations.

1 (8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each fee
2 collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion of
3 judicial salaries."

4

5 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 1997.

6

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0061, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring that the District Court and Supreme Court fees being deposited to the Judges' Pension Trust Fund be deposited instead to the state general fund; increasing the state general fund contribution and the state special revenue contribution to provide for the actuarially required funding of the Judges' Retirement System.

ASSUMPTIONS:

1. The current statutory funding rate for this system totals 48.01 percent of compensation (composed of 7 percent from members; 6 percent from the state; 34.71 percent from District Court fees; and 0.3 percent from Supreme Court fees). Due to continuing shortfalls in District Court fees, total contributions to the system have averaged 34 percent of compensation.
2. The actuarial cost of funding the normal costs of the Judges' Retirement System (JRS) as they accrue and the current unfunded liabilities over 30 years beginning July 1, 1997 would total 45.19 percent of salaries. With member contributions remaining at their current level of 7 percent; the remaining 38.19 percent of compensation would come from the state general fund and state special revenue funds.
3. General fund contributions for Supreme Court Justices and District Court Judges would increase from 6 percent to 38.19 percent of compensation, or \$192,396 to \$1,197,087. State contributions for the Chief Water Court Judge from the renewable resource account would increase from 34.71 percent to 38.19 percent of compensation, or an increase of \$2,507.
4. District Court and Supreme Court fees of approximately \$575,000 per year would be deposited to the general fund and would offset a portion of the general fund contribution increase of \$1,004,691. (\$1,197,087 minus \$192,396)
5. The total covered payroll for the JRS during fiscal 1998 and fiscal 1999 would be \$3,206,597 each year, of which \$72,042 would represent the salary for the Chief Water Court Judge.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY 1998</u> <u>Difference</u>	<u>FY 1999</u> <u>Difference</u>
Contributions:		
General Fund	1,004,691	1,004,691
State Special Revenue	<u>2,507</u>	<u>2,507</u>
Total	1,007,198	1,007,198


Revenues:

General Fund (District and Supreme Court fees)	575,000	575,000
JRS Pension Trust Fund	432,198	432,198

Net Impact on Fund Balance: (Revenue minus expense)

General Fund (01)	(429,691)	(429,691)
State Special Revenue (02272)	(2,507)	(2,507)
JRS Pension Trust Fund (09)	432,198	432,198

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: The legislation will provide an actuarially sufficient funding mechanism for the state contributions to the Judges' Retirement System pension trust fund as required by the Montana constitution. Without sufficient funding, the state general fund would be required to pay any benefit shortfalls as they occur in the future, resulting in much larger impacts to the general fund than the costs of this legislation.


 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 WILLIAM WISEMAN, PRIMARY SPONSOR DATE