



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill # HB0157

Title: Generally revise laws related to disqualification of judges

Primary Sponsor: Mandeville, Forrest

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
Expenditures:				
General Fund	\$51,000	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$51,000)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: HB 157 requires automatic recusal by a justice or judge when a person in an action or proceeding, or the person's employee or attorney, has contributed an amount exceeding statutory contribution limits to a judicial candidate. There will be one-time costs to modify various judicial computer systems. Other potential fiscal impacts have been identified, but the costs are indeterminable.

FISCAL ANALYSIS

Assumptions:

Judicial Branch

1. HB 157 would be effective for all judicial elections following the effective date of October 1, 2019.
2. HB 157 requires automatic recusal by a justice or judge when a person in an action or proceeding, or the person's employee or attorney, has contributed an amount exceeding statutory contribution limits to a judicial candidate and when the contribution has been shown to benefit the judicial candidate.
3. It is assumed that the number of justice and judge substitutions would increase significantly during and following the 2020 general election cycle, but it is not possible to estimate the number.

4. District Court judge assignments are made automatically through their case management system (Full Court). This system would need to be customized to track the automatic recusal by attorney and judge and adjust the random assignment of cases. Presumably, the single judge districts would receive notice and the multiple judge districts would move to the next judge in the automatic case assignment process. Based on previous complex modifications to the system, the one-time cost is estimated to be \$26,400.
5. The Supreme Court conducts all business in panels of five or seven justices. Panels are assigned by the Supreme Court’s case management system (C Track). This system would need customization to track the automatic recusal by justice(s) and automatically reset the panel. Based on previous complex modifications to the system, the one-time cost is estimated to be \$24,600.
6. The Courts of Limited Jurisdiction’s case management system (Full Court) would require additional customization. It is unknown how this would be done but could possibly be covered under the same modification as the District Court. A cost cannot be estimated.
7. The state Judicial Branch pays the costs of judges’ travel. Montana has 22 judicial districts, twelve of which are single judge districts. The Judicial Branch is budgeted for current travel expenses resulting from current judicial substitutions and recusals. It is assumed that the number of recusals will increase significantly but it is not possible to estimate the number. Increases will result in additional travel expenses, which are not possible to estimate.
8. When another judge is not available in the District Court, a retired judge can be called in to serve. Presumably, the need for retired judges would increase but it is not possible to estimate the cost.

Commissioner of Political Practices

9. The Commission of Political Practices’ database (CERS) stores and makes publicly accessible contribution and expenditure information. Personal contributions are not tracked by employer. This burden will fall to the individual filing motion with the court.

	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Operating Expenses	\$51,000	\$0	\$0	\$0
TOTAL Expenditures	<u>\$51,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$51,000	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$51,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$51,000)	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0

Effect on County or Other Local Revenues or Expenditures:

1. In limited courts, the judge may call in a substitute judge or a neighboring judge. The costs would be assumed by the local government and could result in additional costs for cities and counties. The Judicial Branch has no way of determining the number of potential litigants appearing before a judge or justice that have made contributions triggering recusal.

Technical Notes:

1. Political party committees are already prohibited from contributing to a judicial candidate, 13-35-231, MCA.
2. HB 157 does not define “in the action or proceeding”, so it is not clear who has standing to submit a motion to the judge or justice, nor what capacity the person is involved (party, witness, etc.)
3. HB 157, subsection (2), does not define intermediary.
4. HB 157, subsection (3)(a), conflicts with requirements in subsection (2).
5. HB 157 omits from the definition of “reportable contribution” any contributions made to incidental committees under 13-37-232(1)(a), MCA.

_____	_____	TL _____	1/15/19 _____
<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>