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FISCAL IMPACT STATEMENT

LS 6918
BILL NUMBER: HB 1222

NOTE PREPARED: Dec 30, 2009
BILL AMENDED:

SUBJECT: Representation of Judges in Mandate Litigation.

FIRST AUTHOR: Rep. Clements
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the Attorney General to represent a court that has issued an order of mandate for funds for the operation of the court or court-related functions. It prohibits the state from reimbursing a judge for expenses incurred in employing a private attorney to represent the court in an action for mandate of funds.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Summary* - This bill could increase costs for the Attorney General's (AG) Office by requiring that the AG represent judges in actions resulting from a judge's order for mandate of funds under Indiana Trial Rule 60.5. This increase in cost may be offset by the provision of the bill that prohibits the state from reimbursing a judge for expenses incurred in employing a private attorney to represent the court in an action for mandate of funds.

The overall fiscal impact of this bill will ultimately depend upon:

- (1) the number of actions filed against judges concerning an order for mandate of funds; and
- (2) the cost of requiring the AG to represent judges in these actions as compared to the cost of the private counsel that may have been sought by the judge and reimbursed by the state.

Background Information - Indiana Trial Rule 60.5 states that, as far as the scope of these mandate orders, "courts shall limit their requests for funds to those which are reasonably necessary for the operation of the court or court-related functions. Mandate will not lie for extravagant, arbitrary or unwarranted expenditures nor for personal expenditures (e.g., personal telephone bills, bar association memberships, disciplinary fees).

Prior to issuing the order, the court shall meet with the mandated party to demonstrate the need for said funds."

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues:

State Agencies Affected: Attorney General; Supreme Court; Court of Appeals.

Local Agencies Affected: Trial courts.

Information Sources: Indiana Trial Rules; http://www.in.gov/judiciary/rules/trial_proc/index.html#r60_5.

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