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## FISCAL IMPACT REPORT

SPONSOR Larranaga ORIGINAL DATE 2/16/17  
LAST UPDATED 3/14/17 HB 330/aHFL#1

SHORT TITLE Architectural Act Violation Penalties SB \_\_\_\_\_

ANALYST Fernandez/Amacher

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	\$7.5	\$15.0	Recurring	Architectural Registration

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Board of Examiners for Architects (BEA)  
Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of House Floor Amendment #1

The House Floor Amendment number 1 ensures that the owners, as registered architects, control a majority interest in their architect business entity.

#### Synopsis of Bill

House Bill 330 amends the Architectural Act to update terminology to align with board rules and other technical clean-up; adds language to allow the board to impose a civil penalty up to \$7,500 for each violation of an individual found to be practicing architecture without the proper registration or for violations of the Architectural Act and extends the agency life of BEA until July 1, 2023.

### FISCAL IMPLICATIONS

According to BEA, increasing the current penalty fee from \$1 thousand to \$7.5 thousand in FY18 would increase the board's penalty revenue by \$7.5 thousand and \$15 thousand in FY19.

## SIGNIFICANT ISSUES

According to BEA, the language updates and technical clean-up align with board rules and trade best practices. The penalty of \$7.5 thousand is a deterrent for unethical practices of architecture by licensed and unlicensed individuals that may put public safety at risk. The current penalty of \$1 thousand is insufficient and becomes a “cost of doing business” to those that break the board’s laws.

The BEA provides the following information:

Currently, the Board of Examiners for Architects provides provisional licensure upon completion of the application, payment of fee, submittal of a certificate from the National Council of Architectural Registration Boards (NCARB), and review and recommendation for approval by the Board’s Exam and Reciprocity Committee. Each applicant must pass a brief multiple choice exam based on the Architectural Act and Rules. The process is usually completed within four to six weeks. Provisional status is lifted following the full Board’s approval for licensure during a public meeting.

Educational and experience standards for architectural licensure are not uniform across all U.S. jurisdictions. Accepting every licensee from every U.S. jurisdiction may mean that successful applicants have not met the same educational and experience requirements as candidates who are currently taking the Architectural Registration Exam (ARE) to become licensed initially in New Mexico.

RLD provides the following information:

The majority of the Act deals specifically with Architectural issues, Section 5, as to § 61-15-9, titled “Project Exemptions” has a portion that impacts Construction Industries Division. Section B (4) adds to the exemption for nonresidential buildings the following: “nonresidential buildings, as defined in applicable state or local building codes...”

This addition would appear to indicate that local jurisdictions have the authority to adopt building codes. A local jurisdiction does not have the authority to adopt building codes as only the state has such authority. By current law [60-13-44 (F)], the Construction Industries Licensing Act sets the minimum standard for code compliance in the state. While political subdivisions can enact more stringent requirements by ordinance, they cannot adopt codes. The state is the entity that, for stability, uniformity and consistency, is solely delegated with the responsibility of adopting and enacting codes. Allowing other political subdivisions to adopt codes could create instability and inconsistency with code compliance in our state.

## PERFORMANCE IMPLICATIONS

According to BEA, a goal of the agency is to process applications without delay while ensuring the applicant meets the basic requirements within the NCARB certificate and of the Board. The Board does not delay applications unless the applicant has failed to fill out the application correctly, failed to pay the correct fee, or has failed to provide information regarding disciplinary matters.

**ADMINISTRATIVE IMPLICATIONS**

BEA indicates that the agency will reach out to the 53 architectural jurisdictions in the United States in order to determine if an applicant holds a current license in good standing in another jurisdiction.

**ALTERNATIVES**

BEA notes that the board approved a rule change to allow applicants who are broadly experienced to apply for licensure without an NCARB certificate or NAAB (National Architectural Accrediting Board) accredited degree.

CF/JMA/al/sb