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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/07

SPONSOR Powdrell-Culbert LAST UPDATED _____ HB 857

SHORT TITLE Truth in Music Advertising Act SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

House Bill 857 enacts the "Truth in Music Advertising Act" which generally prohibits a vocal or instrumental group ("performing group") which is seeking to use the name of another group that has previously released a commercial sound recording under that name ("recording group") from advertising or conducting a live musical performance or production in this state through the use of a false, deceptive or misleading affiliation, connection or association between the performing group and recording group.

Exceptions to that prohibition include: the performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States patent and trademark office; at least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group; the live musical performance or production is identified in all advertising and promotion as a salute or tribute; the advertising does not relate to a live musical performance or production taking place in this state; or the performance or production is expressly authorized by the recording group.

The bill allows the Attorney General or district attorney to bring an action for injunctive relief in the name of the state against a person violating the provisions of the new act. The bill appears to allow the court in such action to award damages, which are described as a direction that the defendant restore to a person in interest any money or property, real or personal, that may have been acquired by means of a violation of the act.

The bill would also provide for civil penalties for violation of the act.

SIGNIFICANT ISSUES

This bill, offers the Attorney General, is being promoted by the Vocal Group Hall of Fame in order to protect artists from identity theft and consumers from imposter groups that illegally use the name of legendary groups and artists. It has been enacted into law in five states, and has been introduced in several others. <http://www.vocalhalloffame.com/truth.htm>.

According to the Associated Press, “there are hundreds of bands touring the country these days claiming to be The Platters, the Drifters, the Coasters or some other group from the '50s and '60s, according to the Vocal Group Hall of Fame in Sharon, Pa.”
<http://www.vocalhalloffame.com/article6.htm>.

PERFORMANCE IMPLICATIONS

The bill would require the Attorney General, or district attorney, to bring actions to enjoin the practices it prohibits.

EO/csd