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FISCAL IMPACT REPORT

SPONSOR	SCORC	ORIGINAL DATE LAST UPDATED	HB	
SHORT TITLE Corporate Reporting Penalties			 SB _	402/SCORCS

APPROPRIATION (dollars in thousands)

ANALYST Wilson

Appropr	iation	Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

<u>Responses Received From</u> Attorney General's Office (AGO) Public Regulation Department (PRC)

SUMMARY

Synopsis of Bill

The Senate Corporations & Transportation Committee substitute for Senate Bill 402 amends the Corporate Reports Act and the Nonprofit Corporation Act by adjusting downward

The bill also allows the PRC to extend a filing period for not more than 30 days as opposed to the 12 days in the current law.

The bill requires a domestic or foreign corporation to file a biennial report instead of the current annual report required by current law. The penalty for late filing of biennial corporate reports from is lowered from \$200 to \$50.

In addition a domestic or foreign corporation required to file a supplemental report that fails to submit the required report within the time prescribed for a reporting period shall also incur a civil penalty of \$50 instead of the current \$200.

This bill provides for a fee for filing of a biennial report of \$10. For failing to submit a biennial report within the time required, there is a civil penalty of \$10.00 in addition to the fee for filing the report.

Senate Bill 402/SCORCS – Page 2

The bill sets out the procedures for filing a first and biennial report. There is also a procedure in this bill for revoking a limited liability company.

FISCAL IMPLICATIONS

The PRC claims there will be no significant fiscal impact to the general fund since the decreases in late filing fees will offset the increase in the additional filing fee for biennial reports and civil penalty for failure to timely file such report

SIGNIFICANT ISSUES

The PRC provided the following:

- Current statutes impose a civil penalty of \$200 for late filing of biennial or supplemental reports. Entities can pay this amount or re-incorporate under a different name for a lower cost. The bill will assess a smaller business friendly late fee that is lower than the total cost to re-incorporate under another name given all costs associated with the transaction from the corporation to the PRC. The net effect of the bill will be to encourage business to maintain their corporate status within the State of New Mexico.
- The reason for requiring limited liability companies to file biennial reports is keep track of their existence. Keeping track of their existence has many implications. Currently, there is no method of knowing whether these entities are still in existence. Without information provided directly to the PRC that a limited liability company is no longer in existence, the name of the limited liability company cannot be used by another entity. More generally, the public has an interest in knowing that the database of a state agency is updated regularly and therefore reasonably accurate.

ADMINISTRATIVE IMPLICATIONS

The PRC will continue to assess and collect fees and applications. The current staff level is sufficient to perform these transactions.

DW/mt