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FISCAL IMPACT REPORT

ORIGINAL DATE 2/14/07
 LAST UPDATED 2/28/07 HB _____

SPONSOR Jennings

SHORT TITLE Public Accountancy Board Powers & Fines SB 792

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$20.0	\$20.0	Recurring	Public Accountancy Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$2.0	\$1.5	\$5.0	Recurring	Public Accountancy Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)
 Regulation & Licensing (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 792 amends Sections 61-28B-1, 61-28B-5, 61-28B-20, and 61-28B-27 NMSA 1978 and adds a new section to 61-28B NMSA 1978. The bill mandates a criminal history background check for any applicant for an initial or reciprocal certified public accountant certificate in New Mexico and establishes a maximum fee that may be charged by the Public Accountancy Board (board) for this process.

It further raises the limit on administrative fines that the board may impose on licensees who violate the 1999 Public Accountancy Act or rules promulgated by the board.

SB792 establishes the following:

- (1) a criminal history background will be required of each new applicant for an initial or reciprocal certified public accountant certificate in New Mexico;
- (2) the board may charge an applicant a maximum fee of \$100 to conduct a fingerprint background check;
- (3) increasing the maximum administrative fine the board may impose on a licensee who violates a provision of the 1999 Public Accountancy Act or board rules from \$1,000 to \$10,000.

FISCAL IMPLICATIONS

It is estimated that the board will assess additional penalties for administrative violations resulting in a positive fiscal impact of approximately \$20,000 per year. This is based on the number of enforcement proceedings before the board during FY05, FY06, and the first half of FY07 that involved very egregious behavior by individual CPAs and large CPA firms for whom the maximum fine of \$1,000 was assessed.

It is estimated the criminal history background check program will have an initial implementation cost of approximately \$2,000 in FY07 for equipment installation and supplies. Thereafter, it is estimated that the operating cost will be approximately \$1,500 per year for supplies and a dedicated telephone line. The board does have the authority to charge the licensee to cover these costs.

DPS notes the bill provides for a fee for fingerprinting and background check for an applicant for certification not to exceed one \$100. The DPS charges \$34 per applicant for a criminal background check. DPS believes that the board does not need to charge the fee allowed by this bill at this time.

SIGNIFICANT ISSUES

This bill will allow the board to impose fines commensurate with violations that are committed, particularly by large, national accounting firms. The previous cap of \$1,000 is not a sufficient penalty for a large firm registered in New Mexico that is disciplined by a federal licensing or oversight body. Such discipline is a violation of the Public Accountancy Act, and the action of the firm may impact the economic well-being of thousands of New Mexicans. This bill will also allow the board to better protect the economic welfare of New Mexicans by ensuring that an applicant for licensure has not committed dishonest or felonious acts in another state which he failed to report on his application for licensure.

ADMINISTRATIVE IMPLICATIONS

Applicants for licensure must obtain fingerprint cards from the board office prior to applying for licensure, have their fingerprints taken, and return the cards to the board office with payment before the background check can be completed. Any matches found during a background check

will be subject to review by the board before a license may be issued.

The DPS serves as the State Central Repository for Criminal History and as the liaison to the FBI for the purpose of conducting Nationwide Background Checks. The FBI's authority to conduct the background is pursuant to PL 92-544, which requires that a state have an authorized (by the FBI) state statute in place before they can conduct the background check. The DPS will work with the FBI to ensure that the language contained in the bill will be approved by the FBI if passed.

DW/nt/rs