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FISCAL IMPACT REPORT

SPONSOR: Gonzales DATE TYPED: 03/07/03 HB 940

SHORT TITLE: Nonprofit Corporation Officer Civil Liability SB _____

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Minimal (See Narrative)	Recurring	

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Administrative Office of the Courts (AOC)
 Attorney General (AG)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 940 amends Section 44-3-4 NMSA 1978, providing that the attorney general or district attorney may initiate a civil action against a director of a **nonprofit corporation**.

This section gives the attorney general or the district attorney the authority to bring an action in the name of the state

- When a person usurps, intrudes into or unlawfully holds or exercises any public office, civil or military, any franchise within this state or any office in a corporation or nonprofit corporation created by authority of the state;
- When any public officer, civil or military, has done or suffered an act which, by the provisions of law, works a forfeiture of his office; or
- When any association or number of persons acts within this state as a corporation without being duly incorporated or, in case of a foreign corporation, without being duly authorized to do business within this state.

Significant Issues

The Attorney General (AG) notes that the provisions of the bill will allow individuals to bring a civil cause of action against a nonprofit corporation for its misconduct or violation of its charitable trust.

The Administrative Office of the Courts (AOC) notes that the bill increases potential liability for directors of nonprofit corporations.

An increase in liability may act as a negative incentive to individuals seeking directors' positions in nonprofit corporations.

It appears that directors of nonprofit corporations whose charters have been revoked will be subject to civil action. Charters may be revoked as a result of missed filings and other administrative oversights.

The Public Regulation Commission (PRC) notes that the provisions of the bill may diminish the number of filings from those officers or directors who do not lawfully hold an office in a nonprofit corporation.

FISCAL IMPLICATIONS

The provisions of the bill may cause a small increase in litigation, potentially prompting a slight increase in costs across the judiciary.

JCF/prr