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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/11

SPONSOR Rehm LAST UPDATED _____ HB 262

SHORT TITLE Process Server Licensing Act SB _____

ANALYST Sanchez, C.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	Indeterminate	Indeterminate	Recurring	Process Server Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$80.0	\$80.0	\$160.0	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorney (AODA)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 262 creates the Process Server Licensing Act that will make it unlawful for anyone to act as a process server without being licensed by the Regulation and Licensing Department (RLD). HB 262 gives RLD authority to administer and enforce the Act and to keep a record of licensees. HB 262 authorizes RLD to adopt rules: a) to carry out the Process Server Licensing Act including establishing professional ethical standards; b) regarding the licensing process; c) regarding a registering process server employees; d) to establish training and educational standards for licensure; e) to establish continuing education requirements; f) to establish and operate a branch office; g) to create a policy on reciprocity with other states; and h) to require background investigations.

HB 262 sets out the requirements to obtain a license for an individual process server and a process server company. Under this bill, RLD also licenses a process server manager. The manager must surrender their license to the process server company when they cease to be employed and the company is then required to surrender the license to RLD. HB 22 requires RLD to set up another category of license called an employee registration. Fees for license are provided in HB 262 and a license and registration renewal process is outlined. HB 262 requires a process server company to file a surety bond to do business in New Mexico.

Denial, suspension or revocation of a license or registration is governed under the Uniform Licensing Act and HB 262 outlines the grounds and hearing process for such action. Authority for penalties and background investigations are also provided in HB 262. Process servers licensed under HB 262 are exempt from the Private Investigations Act.

FISCAL IMPLICATIONS

HB 262 will require the Regulation and Licensing Department (RLD) set up a new licensing program for process servers. According to RLD, because of the amount of rule writing, promulgation, license investigation and potential revocation, at least 1.5 FTEs will be required to run this new program. It is estimated, conservatively, that this program will cost at least \$80,000 for personal services and benefits. HB 262 sets up the “process server fund” for receipt of the fees to run this program. However it is unknown at this time whether the fees will cover the costs needed by RLD to run this new program.

There is no way to estimate the number of misdemeanors that might be filed in the magistrate courts for violations of the Process Server Licensing Act. There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The policy issue for the Legislature is whether process servers should be licensed and regulated by the state. RLD is not aware of any problems or issues with the existing manner that process servers operate.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/bym