Legislative Analysis

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PUBLIC ACCOUNTING: LICENSE FEES & PEER REVIEW

Senate Bill 722
Sponsor: Sen. Jim Barcia

Senate Bills 723 and 724
Sponsor: Sen. Michael Bishop

House Committee: Banking and Financial Services
Senate Committee: Banking and Financial Institutions

Complete to 11-1-05

A SUMMARY OF SENATE BILLS 722 - 724 AS PASSED BY THE SENATE 10-18-05

Senate Bill 722 would amend the State License Fee Act (MCL 338.2211) to increase public accounting fees, add a new peer review fee, and create the Accountancy Enforcement Fund into which revenue from the increase in fees and the new fee would be deposited. The new Fund would be administered by the Department of Labor and Economic Growth for use in enforcing Article 7 of the Occupational Code regarding unlicensed activity, and for disciplinary actions, the peer review program, and reimbursements to the Attorney General for expenses incurred in prosecutions. Money in the Fund could also be used for expenses related to participation in national accounting organizations essential to the regulation of certified public accountants. Unexpended balances in the Fund at the end of a fiscal year would carry over to the next fiscal year.

Under the bill, the fees would be the following:

** Application processing for individuals and firms: $100.
** License to practice for individual and firms, per year: $100.
** Individual registration, per year: $25.
** Permit for temporary practice, per year: $100.
** Peer review fee: $100.

The current fees are as follows:

** Application processing fee: $25.
** Annual fee for license to practice and registration of certificate: $40 through September 30, 2007, or $25 beginning October 1, 2007.
** Annual fee for an individual's registration of certificate: $15 through September 30, 2007, or $10 beginning October 1, 2007.
** Annual fee for a firm's or corporation's registration: $35 through September 30, 2007, or $25 beginning October 1, 2007.
** Annual branch office registration fee: $25.
** Permit for temporary practice: $15.

Senate Bill 723 would amend the Occupational Code (MCL 339.601 et al.) to make the unauthorized practice of public accounting and the misuse of titles and abbreviations restricted for CPAs a felony rather than a misdemeanor. Currently, a violation is punishable by up to one year's imprisonment and/or a maximum fine of $5,000; under the bill, it would be punishable by up to five years' imprisonment and/or a maximum fine of $25,000.

The bill also would do the following:

-- Require licensed public accounting firms and sole practitioners to participate in a peer review program established by DLEG. This requirement would begin March 1, 2007 for those who perform attest services, including audits, reviews, and compilations that are relied upon by third parties. Peer review would have to have been accomplished within the three years prior to an application for renewal or relicensure. A firm or sole practitioner that received an adverse report or a second modified peer review report would have to notify DLEG within 30 days of its receipt.

-- Establish an administrative fine of up to $25,000 per violation for violations involving the unauthorized use of protected titles and engaging in public accounting without a license. The department could conduct an investigation and proceed to enforce penalties under the act.

-- Establish an administrative fine of up to $25,000 per violation for violations of Article 7 and rules or orders promulgated under the article.

-- Require a licensee or registrant to report to the department a determination, order, judgment, or conviction by a federal or state administrative agency, or a judgment or conviction issued by a federal court, state court, or other court of record regarding a violation involving dishonesty, fraud, or negligence.

-- Delete a provision allowing a person to sit for a certified public accountant (CPA) exam if he or she is scheduled to receive an appropriate bachelor's degree within 30 days after the exam.

-- Specify that a provision of Article 7 prohibiting a CPA from disclosing certain information would not apply to disclosure to a law enforcement or governmental agency if the CPA had reason to believe a client had violated the law.

-- Exempt certain information in DLEG's possession from the Freedom of Information Act. This would apply to documents or records pertaining to a review, an investigation, or disciplinary actions unless the documents or records were evidence in a contested case or were used as a basis for formal action by the department.

Senate Bill 724 would amend the Code of Criminal Procedure (MCL 777.13p) to include the unauthorized practice of public accounting in the sentencing guidelines. The offense would be a Class E felony against the public trust, with a statutory maximum sentence of five years' imprisonment. The bill is tie-barred to Senate Bill 723.

FISCAL IMPACT:

The fee increases are estimated to generate $1.7 million biennially, and the new peer review fee could generate $334,200 triennially if all firms participate.

The bills would have an indeterminate fiscal impact on state and local corrections systems, depending on how they affected numbers of convictions and sanctions applied. Currently, a violation is a misdemeanor, and costs of criminal sanctions. whether jail time or misdemeanor probation supervision or both, would fall to local units of government. Convicted felons, however, may be sentenced to state prison (at an average annual cost to the state of about $29,000), probation (at an average annual cost to the state of about $2,000, jail (at a local cost that varies by county), or some combination of jail and probation. Any increases in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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