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FISCAL IMPACT REPORT

SPONSOR Snyder ORIGINAL DATE 2/21/07 HB _____
LAST UPDATED _____
SHORT TITLE Prohibit Unauthorized Practice of Law SB 877
ANALYST Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 183

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Administrative Office of the Courts (AOC)

Public Education Department (PED)

Energy Minerals and Natural Resources Department (EMNRD)

Corrections Department

SUMMARY

Synopsis of Bill

Senate Bill 877 replaces the current language of Section 36-2-27 regarding the unauthorized practice of law. The new language includes the definition of the practice of law, what constitutes the unauthorized practice of law, and what would not be considered the unauthorized practice of law. The new language establishes criminal and civil penalties, with the civil remedy to include injunctive relief and an action for damages available to any person damaged by the unauthorized practice of law. The new language also establishes the authority of the attorney general to bring a cause of action against the alleged violator engaged in the unauthorized practice of law.

FISCAL IMPLICATIONS

According to the Attorney General's Office, it will also need extra funding and FTE to enforce this bill. The agency did not provide an amount.

ENMRD also notes that more attorneys would be needed if non-attorney state employees cannot prepare and negotiate contracts. This would result in an increase in EMNRD's personnel costs

and a need for additional operating budget.

SIGNIFICANT ISSUES

According to the AGO, the new language expands and clarifies what may or may not constitute the unauthorized practice of law, and makes more remedies available to anyone harmed by the unauthorized practice. Additionally, the attorney general now has authority to bring an action against anyone engaged in the unauthorized practice of law.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 877 is a companion to HB 183, with the only difference being, SB 877 does not include a \$10 thousand general fund appropriation.

ADMINISTRATIVE IMPLICATIONS

If this bill becomes law it could impact the Energy, Minerals and Natural Resources Department's (EMNRD) contract and procurement processes as well as its employees' ability to negotiate agreements. While EMNRD attorney review joint powers agreements, professional service contracts, memorandum of agreement or understanding, etc. they do not review standard purchase agreements for supplies and equipment that the General Services Department provides.

In addition, non-attorney employees often select which attorney-prepared contract form to use and draft the scope of work. They usually negotiate the contracts or agreements' scope of work. EMNRD processes more than 275 contracts annually. If non-attorneys could no longer select and prepare contracts or negotiate agreements on EMNRD's behalf, they attorneys' workload would increase substantially and EMNRD's ability to promptly meet its obligations would be significantly impacted. More attorneys would be required.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

By not enacting this bill the definition of the unauthorized practice will be less clear, and the remedies available to a person damaged by the unauthorized practice will be more limited.

AMENDMENTS

EMNRD suggests modifying the proposed definition of practice of law to exclude the drafting and preparation of contracts, purchase agreements, and real estate documents and negotiation by government officers and employees on local, state, or federal agencies' behalf or by an entity's agent on an entity's behalf. Clarify that licensed real estate agents may prepare contracts related to real estate transactions.

The AOC recommends defining "person" as used in the act.

POSSIBLE QUESTIONS

Could the Attorney General's Office be more specific on the funding and FTE needs?