HB 407

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 407 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Economic Matters Education, Health, and Environmental Affairs

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State Board of Public Accountancy - Disciplinary Authority

This departmental bill specifies that the State Board of Public Accountancy may deny licensure or a permit to an applicant or discipline a licensee or firm permit holder if the applicant, licensee, or permit holder has been sanctioned by a regulatory entity established by law for an act or omission that directly relates to the fitness of a person to practice public accountancy.

The bill also establishes that a holder of a permit issued by the board may be fined up to $5,000 for violations of the Maryland Public Accountancy Act. To determine the amount of a fine, the board is required to consider several factors specified in the bill.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues resulting from the expansion of the board's authority to impose civil fines on licensees and permit holders. Expenditures are not affected.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The State Board of Public Accountancy regulates and licenses certified public accountants and issues permits to business entities that provide accountancy services.

The Maryland Public Accountancy Act stipulates that an applicant for a license or permit, a licensee, or firm permit holder may have an application denied, be reprimanded, or have the license or permit suspended or revoked for various infractions enumerated in statute. In particular, the board may take such action if an applicant, licensee, or permit holder has been sanctioned by any unit of State or federal government for acts or omission related to the practice of public accountancy.

In addition to reprimanding a licensee or suspending or revoking a license, the board may fine a licensee up to $5,000 for violating the Act. Permit holders, however, are not subject to such a fine under current law.

Background: In 2002, the Sarbanes-Oxley Act created the Public Company Accounting Oversight Board (PCAOB) as a private, nonprofit corporation to oversee auditors of public companies. DLLR advises that the board may use a PCAOB sanction as the basis for a decision to discipline a licensee or permit holder; however, a legal challenge to such a board action would likely be unsuccessful because PCAOB is not a federal or state agency. The bill adds statutory language establishing that a PCAOB sanction – or a similar action by any other private agency established by an act of the U.S. Congress or a state legislature – that relates to the fitness of an individual or firm to hold a license or permit is grounds for the board to undertake disciplinary action.

Currently, the board may not impose a civil penalty against a firm found to be in violation of the Maryland Public Accountancy Act. The board may only reprimand, suspend, or revoke a firm's permit to practice certified public accountancy in the State. DLLR advises that in some cases a reprimand may be too light a penalty, but a suspension or revocation may be too severe. If a firm's permit is suspended or revoked, licensed CPAs, who may have had no involvement in the offense, could not legally practice their profession through that firm.

State Fiscal Effect: Under the bill, the board may fine permit holders for violations of the Maryland Public Accountancy Act. This expanded authority may result in the board imposing a higher number of fines and, thus, additional fine revenue, which accrues to the general fund. Legislative Services cannot reliably estimate how much fine revenue may be generated due to the bill but expects any increase in general fund revenues to be minimal.

The board's broadened authority to discipline licensees and permit holders and its ability to impose civil penalties on permit holders may result in additional hearings before the board. However, DLLR advises that the board can handle any increases in its hearing caseload with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2010
mlm/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Board of Public Accountancy – Disciplinary Authority

BILL NUMBER: HB 407

PREPARED BY: Department of Labor, License and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

SMALL BUSINESS IMPACT STATEMENT:
The provisions of this legislation will not have an economic impact provided that firms and individuals comply with the provisions of the Maryland Public Accountancy Act and are not parties to disciplinary action taken by the Board.

IMPACT ON LOCAL GOVERNMENT:
The proposed legislation would have no impact upon local government.