STORAGE NAME: h1125.go
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HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1125

RELATING TO: Notary Publics

SPONSOR(S): Representative Jones

STATUTE(S) AFFECTED: s. 117.01

COMPANION BILL(S): SB 1650 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) GOVERNMENTAL OPERATIONS
(2)
(3)
(4)
(5)

I. SUMMARY:

HB 1125 provides for an increase in the surety bond amount which notaries public are required to give prior to executing their duties, and to maintain throughout their terms of office. The increase to $10,000, from $5,000, would become effective January 1, 1998.

Proponents of this bill state that it is intended to address a perceived increased need to protect the general public from financial harm caused by breaches of duty of notaries public acting in the official capacity of their office.

It is not possible to determine the fiscal impact HB 1125 will have on state and local governments, as the number of notaries public employed by state and local governments is unknown. Also, it is unknown if, when, or how much, surety bond premiums will increase as a result of the surety bond amount increasing to $10,000. A question arises as to whether this legislation would result in an increase in the number of claims filed against government-employed notaries public, following an increase in the amount of the surety bond.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Pursuant to s. 117.01, F.S., the Governor appoints qualified persons as notaries public for a period of four years. Prior to executing the duties of the office, and throughout the term of their office, each notary public is required to "[g]ive bond, payable to any individual harmed as a result of a breach of duty by the notary public acting in his or her official capacity." The current bond amount is $5,000. This bond requirement has been in effect since January, 1 1992. The bond must be approved and filed with the Department of State, and executed by a surety company for hire, duly authorized to transact business in Florida.

B. EFFECT OF PROPOSED CHANGES:

Section 117.01(7)(a), F.S., is amended requiring that effective January 1, 1998, notaries public must give bond of $10,000.

See FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS for the possible fiscal impact of HB 1125.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. HB 1125 obligates notaries public to give bond of $10,000, or twice the current amount, prior to executing the duties of their office, and throughout the term of their office.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not Applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

Yes, if the giving of a surety bond is considered tantamount to a fee.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

*No. (see Lower Taxes - b. above)

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No. Surety firms and the public might be considered beneficiaries of this legislation, but individual notaries will ultimately pay the direct costs related to HB 1125.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No. It is unlikely that the bond amount will be an incentive to transact additional business which would require the services of a notary public.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, to the extent that the bill provides for an increased bond notaries public are required to give.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

Not Applicable.

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

Not Applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not Applicable.

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION ANALYSIS:

Section 1 - Amends s. 117.01(7), F.S.; provides, effective January 1, 1998, for the bond amount a notary public shall give prior to, and during the period of their office, to be doubled from the current amount of $5,000, to $10,000.

Section 2 - Provides for an effective date of January 1, 1998.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects</u>:

None.

2. <u>Recurring Effects</u>:

Surety bond issuers have provided estimates of from no increase, up to a 50 percent increase in premiums. There should be no additional recurring effects unless premiums are raised due to increased claims, or for some other reason. It is not possible to estimate the actual fiscal impact.

3. <u>Long Run Effects Other Than Normal Growth</u>:

The number of notaries public in the employ of the state are not known, but any increase in surety bond premiums will impact state agencies, and state funds. Surety company representatives assert that the increase in the surety bond amount to $10,000 will be accompanied by from **no** increase in premiums, up to around a **50 percen**t premium increase. At least one of the twelve approved bonding agencies expressed concern that the increase in the bond amount might encourage additional claims, including frivolous claims. If that should occur, the surety companies would then almost surely increase premiums to compensate for their increased costs. It is not possible to estimate the actual fiscal impact.

4. Total Revenues and Expenditures:

   It is not possible to determine the eventual expenditures related to the increase in surety bond amounts.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   See FISCAL IMPACT ON STATE AGENCIES.

3. Long Run Effects Other Than Normal Growth:

   See FISCAL IMPACT ON STATE AGENCIES.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   A representative of one of the twelve approved state bonding agencies stated that the last ($4,000) increase in the surety bond requirement resulted in a decrease in their business of between 20 percent and 25 percent. Also see FISCAL IMPACT ON STATE AGENCIES.

2. Direct Private Sector Benefits:

   There appear to be no fiscal benefit for notaries public in the private or public sector, but representatives of the companies selling the bonds assert that the public at large will benefit by additional protection, should a notary public cause some financial harm in the course of performing their official duties. Those firms increasing premiums would also enjoy financial benefits.

3. Effects on Competition, Private Enterprise and Employment Markets:

   See #1 & 2 - Direct Private Sector Costs/Benefits.

D. FISCAL COMMENTS:

See FISCAL IMPACT ON STATE AGENCIES.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 1125 does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 1125 does not require counties or municipalities to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 1125 does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

Proponents of HB 1125 believe that the bond amount needs to be increased because: 1) there is a need to protect the general public engaging in financial transactions representing increasingly significant investments, such as automobile transfers, and 2) the surety bond amount hasn't been increased since January 1, 1992, when it was increased from $1,000 to $5,000. On January 1, 1976, the surety bond amount was increased from $500 to $1,000.

Proponents point out that the Consumer Price Index (CPI) increased 400 percent from 1919 to 1988, and believe the CPI has increased significantly since then, indicating a need to increase the surety bond requirement. Opponents point out that the surety bond requirement has increased 1,000 percent between January of 1976 and January of 1992. Moreover, an increase in the surety bond requirement to $10,000, effective January 1, 1998, would mean that the surety bond requirement would have increased 2,000 percent in twenty six years.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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