

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1074-01
Bill No.: HB 292
Subject: Corporations; Secretary of State
Type: Original
Date: February 3, 2009

Bill Summary: This proposal changes the laws regarding the requirements for corporate filings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	\$240,600	(\$126,769)	(\$767,600)
Total Estimated Net Effect on General Revenue Fund	\$240,600	(\$126,769)	(\$767,600)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Technology Fund	\$58,625	\$166,750	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$58,625	\$166,750	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the Secretary of State - Business Services** stated this proposal would increase total state revenues in FY 10 because of corporations electing to pay an additional fee to change the due date of their corporate registration report and electing to file their report biennially rather than annually. Officials estimate the increase in revenue to the General Revenue Fund for FY 2010 at \$240,606. Officials stated that this increase will offset the decrease in revenue associated with a reduction in the online filing fee for LLC's. In FY 11 and FY 12 there will be a decrease in total state revenue because of the reduction in filing fees for LLC's will exceed the increase in fees associated with biennial filing and the change of the corporate registration report due date. Officials estimate the decrease in revenue for FY 2011 at (\$142,056) and at (\$783,400) in FY 2012.

FY 11 and FY 12 cost avoidance is in reduced postage and printing because of biennial filing. Officials estimate savings from postage and printing at \$15,287 in FY 2011, and at \$15,800 in FY 2012. These savings would be to the General Revenue Fund.

This bill allows the Secretary of State to charge an additional fee for expedited filings; and allows corporations to change the due date of their corporate registration report; it allows corporations to elect to file their corporate registration report biennially; and it will reduce the fee for LLC's organizing online.

Revenue would be generated as follows:

Expedited fees: Estimated 2 expedited requests per week at \$200 per filing.

Reduction of online filing fees for LLC's: It is assumed that 50% of the 30,000 LLC's formed each year will file online ($15,000 \times \$55 = \$825,000$ loss).

Option to change the due date of the corporate registration report: It is assumed that 30% of the 115,200 general business corporations will opt to change their due date; of those, 50% will change in FY 10 and 50% will change in FY 11.

Option for a biennial corporate registration report: It is assumed that 50% of the 115,200 general business and 50% of the 36,000 non-profit corporations will elect to file biennially. Corporations formed in odd numbered years can opt in an odd numbered filing year; corporations formed in an even numbered year can opt in an even numbered filing year. It is assumed that 50% will opt to file biennially, with 75% of the general business and 55% of the

ASSUMPTION (continued)

non-profit filing online; the remainder will file paper reports. The change will occur over two fiscal years, with 76% of the general business corporations that change changing in FY 10 and 24% changing in FY 11. For non-profits, the first year change will occur in FY 11.

Officials estimate expense to the Technology Fund of \$137,500 in FY 2010 for one time contract programming costs, and estimate income from fees in FY 2010 at \$196,125; and \$166,750 in FY 2011. The total net effect to the Technology Fund in FY 2010 is a positive \$58,625, and in FY 2011 \$166,750. There is no impact estimated for FY 2012.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** assume that there is no fiscal impact from this proposal.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
Revenue - Secretary of State LLC and Corporation filing fees	\$240,606	(\$142,056)	(\$783,400)
<u>Savings</u> - Secretary of State postage and printing	<u>\$0</u>	<u>\$15,287</u>	<u>\$15,800</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$240,606</u>	<u>(\$126,769)</u>	<u>(\$767,600)</u>
TECHNOLOGY FUND			
<u>Income</u> - from fees	\$196,125	\$166,750	\$0
<u>Cost</u> - one-time programming change	<u>(\$137,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON TECHNOLOGY FUND	<u>\$58,625</u>	<u>\$166,750</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

A small business organizing as a limited liability company and filing online will save \$55 per business. There will be a fee of \$20 for each corporation that opts to change the month its corporate registration report is due; it is assumed that this cost will be more than offset in cost savings/avoidance by completing this requirement at the same time other business and tax filings are completed.

A corporation electing to file its corporate registration report biennially rather than annually will presumably, over a two year period, expend one half the cost of preparing the report. A typical business will spend approximately 15 minutes each year preparing and filing its registration report; biennial filing would save an estimated 8,000 hours by business filers every year.

FISCAL DESCRIPTION

Beginning January 1, 2010, this bill allows a corporation to file a corporate registration report on a biennial basis and to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years. The fee for filing the biennial report will be \$80 if filed in a written format and \$30 if in an electronic format. Any corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years. The bill also allows the Secretary of State to collect an additional \$10 fee for each biennial corporate report to be credited to the Secretary of State's Technology Trust Fund Account.

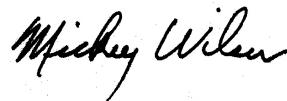
The Secretary of State is authorized to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format.

Currently, the Secretary of State may commence a proceeding to dissolve a corporation if it fails to deliver its corporate registration report to the Secretary of State within 30 days after it is due. The bill changes the deadline to within 90 days.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Department of Insurance, Financial Institutions and Professional Registration
Office of the Attorney General



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Director
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