

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4021S.01I
 Bill No.: SB 877
 Subject: Business and Commerce; Corporations; Fees; Secretary of State
 Type: Original
 Date: February 7, 2022

Bill Summary: This proposal modifies provisions relating to business entities registered with the Secretary of State.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
General Revenue	(\$482,727)	(\$370,823)	(\$527,190)	(\$150,390)
Total Estimated Net Effect on General Revenue	(\$482,727)	(\$370,823)	(\$527,190)	(\$150,390)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Technology Trust Fund	\$180	\$216	(\$103,247)	\$192,162
Total Estimated Net Effect on Other State Funds	\$180	\$216	(\$103,247)	\$192,162

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Total Estimated Net Effect on FTE	0	0	0	\$0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume state General Revenue regarding these particular filings will decrease, for Limited Liability Companies, and decrease for Limited Liability Partnerships in the first five years.

A new filing of Information Statement for LLCs will start in 2025 and affect LLCs every five years thereafter for each new registration resulting in a positive fiscal impact.

State revenue in 10 years would then level back as the fee cut shifts to the information statement required every five years.

These estimates assume various rate(s) of participation and use of an averaging of historical data to determine estimations.

347.044-347.183 (LLC)

<u>FY</u>	<u>GR 0101</u>	<u>TECH 0266</u>
FY2023	\$ (482,162)	\$ 180
FY2024	\$ (370,233)	\$ 216
FY2025	\$ (423,173)	\$ 225

358.460-358.470 (LLP)

<u>FY</u>	<u>GR 0101</u>	<u>TECH 0266</u>
FY2023	\$ (565.00)	
FY2024	\$ (590.00)	
FY2025	\$ (545.00)	

Current customer ratio of paper vs online is 25% to 75% for creation filings the change in fees would strive to move that ratio to 5% paper and 95% online. Filing online will have a cost savings as the system is set up to auto process creation documents. While this cost saving is not true for all filings, as manual review by an examiner is required for those documents, there are added benefits to customer submitting online.

It is assumed that 30% of the current LLCs listed as active are actually doing business and will file an information statement as required under 347.044, with an increase rate over time as new LLCs will know before creating that an information statement will be required in five years. The first LLC was created in December of 1993, since that time over 800,000 entities have been created, or converted to the entity type of Limited Liability Company.

Series LLC is a growing area of the LLC entity type. It is unknown how many filings will be effected by the change in cost, as SOS does not currently have revenue collected for these filings. The best estimate is based on what an examiner thinks LLCs file per month annualized.

The technology trust fund is not impacted until January of 2025 when 347.044 starts.

Expenditures for notices mailed to the affected LLCs are estimated at \$206,974 in FY25. These will be split between GR and Tech Fund for a total of \$103,472 each in FY25.

SOS states the overall impact is estimated at:

Fund Affected	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
General Revenue	(\$482,727)	(\$370,823)	(\$423,718)	(\$150,390)	\$184,617	(\$86,891)
Technology Trust Fund	\$180	\$216	\$225	\$192,162	\$408,765	\$234,752
Total Estimated Net Effect on All State Funds	(\$482,547)	(\$370,607)	(\$423,493)	\$41,772	\$593,382	\$147,861

The Secretary of State reserves the right to offset or request additional resources for estimated fiscal note impacts during the budget process.

Oversight notes that on similar legislation, SB 286 from 2021, SOS stated all changes to software would require working with a third party vendor and/or the Information Technology department. Resulting in an estimated expenditure of \$77,600. SOS is now handling this in-house; therefore, Oversight will no longer reflect this cost on the fiscal note.

Oversight will reflect the estimated fiscal impact as provided by SOS.

<u>FISCAL</u> <u>IMPACT – State</u> <u>Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
GENERAL REVENUE				
<u>Loss-SOS-fee</u> <u>Revenue</u> <u>reduction (LLC)</u>	(\$486,542)	(\$376,437)	(\$430,748)	(\$431,242)
<u>Loss-SOS-fee</u> <u>Revenue</u> <u>reduction (LLP)</u>	(\$565)	(\$590)	(\$545)	\$0
<u>Cost-SOS-notices</u> <u>mailed to affected</u> <u>LLCs</u>	\$0	\$0	(\$103,472)	\$0
<u>Income-SOS-fee</u> <u>Revenue for LLC</u>	<u>\$4,380</u>	<u>\$6,204</u>	<u>\$7,575</u>	<u>\$280,852</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>(\$482,727)</u>	<u>(\$370,823)</u>	<u>(\$527,190)</u>	<u>(\$150,390)</u>
TECHNOLOGY TRUST FUND				
<u>Loss-SOS- filing</u> <u>fees</u>	\$180	\$216	\$225	\$192,162
<u>Cost-SOS-notices</u> <u>mailed to affected</u> <u>LLCs</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$103,472)</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE TECHNOLOGY TRUST FUND	<u>\$180</u>	<u>\$216</u>	<u>(\$103,247)</u>	<u>\$192,162</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

The fees that small businesses pay to the Office of the Secretary of State could change as a result of this proposal.

FISCAL DESCRIPTION

This act has provisions relating to entities registered with the state.

Every limited liability company (LLC) and foreign limited liability company (foreign LLC) is required to file an information statement with the Secretary of State (SOS) once every 5 years, accompanied by a fee of \$15, or \$5 if filed electronically. The SOS is permitted to administratively cancel the articles of incorporation of an LLC or the registration of a foreign LLC for failure to timely file an information statement. The act provides procedures for allowing a foreign LLC to apply to the SOS to have its registration reinstated following such a cancellation. Procedures are also created allowing an LLC to apply for reinstatement following the erroneous or accidental filing of a notice of winding up or notice of termination.

The act modifies the procedure by which a court may decree dissolution of an LLC. Specifically, the court may issue such a decree if it determines:

- It is not reasonably practicable to carry on the business in conformity with the operating agreement;
- Dissolution is reasonably necessary for the protection of the rights or interests of the complaining members;
- The business of the limited liability company has been abandoned;
- The management of the limited liability company is deadlocked or subject to internal dissension; or
- Those in control of the limited liability company have been found guilty of, or have knowingly countenanced, persistent and pervasive fraud, mismanagement, or abuse of authority.

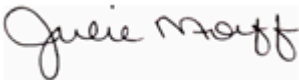
The act reduces various filing fees imposed on LLC's and partnerships for filing certain documents with the SOS and provides for reduced fees for filing certain documents in an electronic format. Additionally, the act creates the following new fees:

- A fee of \$95 for filing a withdrawal of an erroneously or accidentally filed notice of winding up or articles of termination; and
- A fee of \$10 for a filing relating to a limited liability series an additional fee of ten dollars for each series effected or \$5 if filing online in an electronic format prescribed by the secretary.

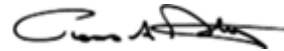
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State



Julie Morff
Director
February 7, 2022



Ross Strobe
Assistant Director
February 7, 2022