

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3681-06
Bill No.: Perfected SS for SCS for SB 931
Subject: Corporations- Securities
Type: Original
Date: February 19, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 20
Total Estimated Net Effect on All State Funds *	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Unemployment Compensation Trust	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on All Federal Funds *	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

* Loss expected to exceed \$100,000 annually.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 200
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **State Treasurer's Office** assume no fiscal impact.

Officials of the **Department of Insurance** assume no fiscal impact.

Officials of the **Department of Revenue** assume there would be no fiscal impact.

Officials of the **Office of Secretary of State- Corporations Division and Securities Division** assume there would be no fiscal impact.

Officials of the **Department of Labor and Industrial Relations** stated that the language in Section 351.247 could seriously jeopardize the State's ability to collect unemployment taxes from corporations and shareholders that would choose to enter into this type of arrangement. With this proposed Section, a person could create a shell corporation, be the sole shareholders, have an agreement to exercise all the powers of the corporation, pay themselves a large salary and instead of paying the corporate debts and taxes, and ultimately close the corporation without any personal liability. Officials stated that the possibility exists that the State would be unable to collect unemployment taxes. Officials stated that they could not estimate the loss of income to the Unemployment Compensation Trust Fund. Officials stated there would be no fiscal impact to the Unemployment Compensation Administration Fund.

Oversight for the purposes of this fiscal note will show loss of income to the Unemployment Compensation Trust Fund as \$0 to Unknown. Officials estimate loss to be greater than \$100,000 annually.

Oversight assumes that Sections 59.040 and 59.042 would have no fiscal impact to local governments, unless the County's governing body would place either the question of combining or separating the Circuit Clerk and Recorder of Deeds offices to a vote. This proposal does not mandate counties to combine or to separate their offices. Therefore, Oversight assumes there would be no fiscal impact to certain counties from this proposal as amended.

FISCAL IMPACT - State Government

FY 2003
(10 Mo.)

FY 2004

FY 2005

FEDERAL FUNDS

WB:LR:OD (12/01)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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Loss to Unemployment Compensation
 Trust Fund
 Unemployment Tax (Section 351.247)*

<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
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* Loss is estimated to exceed \$100,000 annually.

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This act modifies and adds various provisions pertaining to business and commerce. A summary of the provisions follows:

DISSOLUTION OF DEADLOCKED LIMITED LIABILITY COMPANY - (Section 347.143) - This act provides for judicial dissolution of a limited liability company in the event the members are deadlocked.

PLEADING AND BURDEN OF PROOF - (Section 351.055)- This act provides that on a motion to dismiss, a person challenging an exculpation provision must plead facts with particularity and on a motion for summary judgement has the burden of proving the provision is inapplicable.

BONDHOLDER'S POWER TO VOTE - (Section 351.056) - This act provides that a corporation may confer the power to vote upon holders of bonds, debentures or other obligations.

STOCK OPTIONS - (Section 351.182) - This act provides that under certain circumstances, the board of directors may delegate to officers the right to stock options.

DESCRIPTION (continued)

CORPORATE REQUIREMENTS - (Section 351.247) - Allows a corporation which has elected to not be governed by the close corporation provisions of Chapter 351 to modify, by shareholder agreement, various corporate requirements. This act does not affect corporations which have

elected to operate pursuant to the close corporation provisions, and is retroactive.

RENUNCIATION OF BUSINESS OPPORTUNITIES - (Section 351.385) - This act allows a corporation to adopt a provision in its articles renouncing any interest in specified business opportunities.

ABANDONMENT OF MERGER OR CONSOLIDATION - (Section 351.431) - This act allows a corporation to abandon an approved merger or consolidation prior to the merger or consolidation becoming effective.

DEMAND FOR VALUE OF SHARES - (Section 351.455) - This act provides that a shareholder with voting shares who objects to a merger or consolidation has the right to appraisal if the objection is filed prior to the meeting of shareholders.

LIENS - (Section 400.9-303) - This act provides that Sections 700.350 to 700.390, govern the perfection, non perfection and priority of liens relating to mobile homes.

REMEDIES - (Section 400.9-628) - This act provides that a secured party which fails to comply with explanation requirements pursuant to Section 400.9-616 cannot be held liable for the remedy specified in Section 400.9-625(c)(2), relating to failure to comply with Article 9 provisions.

This bill makes technical changes to Article 9 (secured transactions) of the Uniform Commercial Code. The bill corrects some intersectional references, changes some language to correspond to the current version of the revised Article 9 model act, clarifies that certain collected fees are nonstate funds, and remedially removes the perfection method for liens on manufactured homes from the governance of Article 9 of the Uniform Commercial Code.

Senate Amendment #1 adds two new section, section 59.040, and section 59.042. Section 59.040 provides for the combining or separation of the offices of Circuit Clerk and Recorder of Deeds. The proposal would allow the County Commission to submit the question of combining or separating the offices to the voters. Whenever a petition of voters comprised of at least 8% of the voters of the county, as determined by the total vote for Governor at the last preceding general election at which a Governor was elected. Section 59.042 sets forth the method to be followed to separate the two offices when they are combined. Either the County Court can submit the question to the voters or the provisions of Section 59.040 can be followed.

DESCRIPTION (continued)

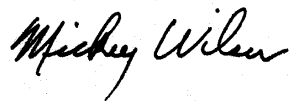
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Treasurer
Secretary of State- Division of Corporations and Securities
Department of Revenue
Department of Insurance
Department of Labor and Industrial Relations

NOT RESPONDING

Office of the Attorney General



Mickey Wilson, CPA
Acting Director
February 19, 2002