TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 1505 - HB 1442

January 20, 2014

SUMMARY OF BILL: Revises multiple laws relating to non-profit corporations including, but not limited to: redefining numerous existing terms related to the Tennessee Nonprofit Corporation Act (the Act); defining new terms related to the Act; changes regarding proper notice given to the Secretary of State (SOS) including notice provided by electronic means; rewriting of certain filing requirements; authorization for the SOS to prescribe mandatory filing forms; establishment of new fees for articles of entity conversion, articles of charter surrender, and statement of abandonment of merger, conversion, or membership exchange; changing charter requirements, bylaw requirements, and law concerning amendments to existing charters and bylaws; changes regarding corporate action made by written consent and written ballot; changes regarding corporate member voting, voting requirements, voting agreements, board of director and officer actions, standards of conduct for directors and officers, and director and officer conflicts of interest; authorization for corporate members to appoint inspectors of elections and the establishment of inspector responsibilities; changes regarding indemnification and liability; expansion of law regarding director and officer conflict of interests and certain related transactions; changes regarding nonprofit corporate mergers, membership exchanges, and entity conversions; expansion of law regarding certain corporate mergers, membership exchanges, and entity conversions; changes regarding the sale, lease, exchange, or disposition of corporate assets; authorization for a public benefit corporation to make distributions to its members, if distributions are in conformity with its charitable purposes; changes regarding voluntary dissolution of nonprofit corporations; changes to required information on an application for certificate of authority for foreign corporations and required information when such corporations relocate; changes regarding required recordkeeping and reporting; and changes regarding provisions which are not applicable to religious corporations. For the purpose of the SOS taking necessary actions to implement the provisions of this act, the effective date is upon becoming law; for all other purposes it is January 1, 2015.

ESTIMATED FISCAL IMPACT:

Increase State Revenue –
$4,600/General Fund/FY14-15
$100/Secretary of State/FY14-15
$9,200/General Fund/FY15-16 and Subsequent Years
$300/Secretary of State/FY15-16 and Subsequent Years

Increase State Expenditures - $12,600/General Fund/One-Time

Assumptions:

- According to the Department of Revenue, this bill will have no impact on the Department.
- According to the SOS, the Tennessee Business Entity Annual Report (TN-BEAR) system will require modification to allow for new mergers, membership exchanges, conversions, and the mailing address provisions. Based on information provided by the SOS, the one-time increase in state expenditures for the computer system modification is estimated to be $12,600.
- Based on information provided by the SOS, any costs incurred for updating and designing forms, computer system testing, and training of staff on proposed law changes can be accomplished within existing resources without an increased appropriation or a reduced reversion.
- The SOS estimates that approximately 95 conversions of non-profit entities will occur each year. Pursuant to Section 12 of this bill, the proposed fee for an article of entity conversion is $100. Therefore, a recurring increase in state revenue of $9,500 (95 annual conversions x $100 proposed fee) beginning in FY15-16. Given the proposed effective date of January 1, 2015, the increase in state revenue in FY14-15 is estimated to be $4,750 ($9,500 x 50% for half-year impact).
- According to the SOS, the new fee revenue will be allocated 97 percent to the state General Fund and three percent to the SOS. As a result, the increase in state revenue to the General Fund in FY14-15 is estimated to be $4,608 ($4,750 x 97%); the increase in state revenue to the SOS in FY14-15 is estimated to be $142 ($4,750 x 3%). The recurring increase in state revenue to the General Fund in FY15-16 and subsequent years is estimated to be $9,215 ($9,500 x 97%); the recurring increase in state revenue to the SOS in FY15-16 and subsequent years is estimated to be $285 ($9,500 x 3%).
- Any increase in state revenue for articles of surrender or statement of abandonment of merger, conversion, or membership exchange is considered not significant.

IMPACT TO COMMERCE:

Increase Business Revenue - $12,600/One-Time

Increase Business Expenditures –
$4,700/FY14-15
$9,500/FY15-16 and Subsequent Years

Jobs Impact – Not Significant

Assumptions:

- SOS will contract with a vendor domiciled in Tennessee for the purpose of making modifications to the TN-BEAR computer system.
- There will be a one-time increase in business revenue to the Tennessee-domiciled business estimated to be $12,600 paid by the state for the purpose of modifying the TN-BEAR computer system.
- Based on Section 12 of the bill, which creates new fees for articles of entity conversion, articles of charter surrender, and statements of abandonment of merger, conversion, or membership exchange, there will be a one-time increase in business expenditures for any single business entity that is required to pay the fees. However, it is anticipated that approximately 95 entities will pay the one-time article of entity conversion fee of $100 each year. As a result, the cumulative and recurring increase in business expenditures is estimated to be $9,500 in FY15-16 and subsequent years; and $4,750 in FY14-15 (for the half-year impact).
- Additional business expenditures may result due to additional administrative work, legal work and accounting work prompted by passage of this bill. However, such increased business expenditures are expected to be offset by increased business revenue realized by the vendors employed to complete such additional work. The resulting net impact is considered not significant.
- The change in the number of jobs in Tennessee is estimated to be not significant because the businesses impacted are assumed to be able to accomplish the provisions of this bill with existing human resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

/rnc