

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 578-05  
Bill No.: Truly Agreed to and Finally Passed HS for HCS for SB 288  
Subject: Secretary of State- Corporations, Recorder of Deeds, Circuit Clerks  
Type: Original  
Date: May 30, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$22,647) to Unknown	(\$23,214) to Unknown	(\$23,794) to Unknown
Technology Trust	\$1,093,125	\$2,186,250	\$2,186,250
Uniform Commercial Code Transition Fee Trust	\$0	\$0	\$0
Statutory County Recorder's	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$1,070,478 to Unknown</b>	<b>\$2,163,036 to Unknown</b>	<b>\$2,162,456 to Unknown</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government *</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

**\* Totals do not include fiscal impact to County Employees Retirement System. Please see Assumption section for explanation of fiscal impact.**

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## FISCAL ANALYSIS

### ASSUMPTION

Officials of the **Office of Administration, Department of Revenue, Department of Economic Development, Office of State Courts Administrator, Department of Insurance, and the Department of Agriculture** assume no fiscal impact.

Officials of the **Office of Secretary of State-Division of Uniform Commercial Code** stated there would be no fiscal impact to their office, however, officials noted that current fees of \$5.00 that go to the Technology Trust Fund would be extended until December 31, 2009. The fees collected under these sections will sunset on 12/31/01. Officials stated that the revenues that would be expected from the \$5 fee extension would be as follows: For 6 months of FY 2002, \$1,093,125; FY 2003, \$2,186,250; and in FY 2004, \$2,186,250. Officials stated that there would be a new fund created within the Secretary of State's Office. The fund is the Uniform Commercial Code Transition Fee Trust Fund, which would collect a filing fee of \$7 that would be transferred to the County Employee's Retirement Fund to offset any loss of revenue due to the change in filings from the local level to the state level. In first class charter counties that have no employees as members of the County Employees Retirement System the fee would go to the counties and the City of St. Louis. Officials could not estimate the amount of revenue the new fee would generate, therefore, income will be shown as unknown.

Officials of the **State Treasurer's Office** stated that this proposal creates the Statutory County Recorder's Fund and the State Treasurer is named as the custodian of the fund. Officials stated that this proposal outlines additional duties for the Treasurer's Office. Officials stated that their office is not able to absorb the expense of administering the new fund. Officials stated that they would require an additional .50 FTE to perform the new duties. Officials stated that they would need an Accounting Analyst I, who would have an annual salary of \$16,986. Fringe Benefits would total \$5,661. Officials assume that equipment and expense can be absorbed with existing appropriations. Officials assume that fiscal impact would first occur in FY 2002 and would total \$22,647; in FY 2003 \$23,214; and \$23,794 in FY 2004.

Officials of the **Department of Labor and Industrial Relations - Divisions of Employment Security** stated that there would be no fiscal impact to their department or its divisions.

ASSUMPTION (continued)

Officials of the **County Employees' Retirement System (CERF)** had done preliminary analysis of this proposal that indicated a possible gain in revenues, however, new information suggests that CERF's financial situation could be negatively impacted by this proposal.

Officials stated that estimates were calculated as follows: CERF receives \$6 for each UCC filing. CERF took a sample of 10 counties and found that approximately 6% of these filings would be eliminated. This proposal adds back an additional \$1 for the remaining 94% of all filings. Aon Consulting had calculated a gain in revenue, which based on the new information may not materialize.

CERF officials assume that the system would have expenditure of staff time and expenses for outside advisors and vendors to identify the additional members of the system and establish appropriate records and procedures to administer their benefits. Officials assume that there will be additional direct benefit costs. The figures depend on the number of additional CERF employees who are added when counties separate their offices. Officials do not know the number of employees that would be added, therefore, administration costs are unknown, however, officials estimate that cost would exceed \$100,000 annually.

CERF officials estimate there would be a loss of investment income on fees turned over to the State up until those amounts are forwarded to CERF. CERF stated that they do not have data to quantify this loss of investment income, therefore, loss of income is unknown. **Oversight would note that in an earlier version, the loss of income was less than \$100,000 annually.**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (6 mo.)	FY 2003	FY 2004
<b>TECHNOLOGY TRUST FUND</b>			
<b><u>Income</u> to Technology Trust Fund</b>			
Extension of sunset date to 12-31-09	<b><u>\$1,093,125</u></b>	<b><u>\$2,186,250</u></b>	<b><u>\$2,186,250</u></b>
<b>GENERAL REVENUE</b>			
	(10 Mo.)		
<b><u>Income</u> to Secretary of State from UCC filing fees</b>			
	Unknown	Unknown	Unknown
<b><u>Cost</u> to State Treasurer</b>			
Personal Service ( .50 FTE )	(\$16,986)	(\$17,411)	(\$17,846)
Fringe Benefits	<u>(\$5,661)</u>	<u>(\$5,803)</u>	<u>(\$5,948)</u>
Total Cost to State Treasurer (Chapter 59 )	<b><u>(\$22,647)</u></b>	<b><u>(\$23,214)</u></b>	<b><u>(\$23,794)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2002	FY 2003	FY 2004
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b><u>(\$22,647) to Unknown</u></b>	<b><u>(\$23,214) to Unknown</u></b>	<b><u>(\$23,794) to Unknown</u></b>
<b>UNIFORM COMMERCIAL CODE TRANSITION FEE TRUST FUND</b>			
<b><u>Income</u> to Fund</b> from \$7 fee on certain UCC filings in office of Secretary of State (Section 400.9-525)	Unknown	Unknown	Unknown
<b><u>Transfer of Funds</u> to County Employees' Retirement System or to St. Louis City or any Charter County whose employees are not members of the CERF. **</b>	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT TO THE UNIFORM COMMERCIAL CODE TRANSITION FEE TRUST FUND *</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>*Oversight assumes income and transfers from the fund would be the same amount.</b>			
<b>** County Employees' Retirement Fund is not considered local funds for fiscal note purposes, therefore, fiscal impact does not include CERF's statement.</b>			
<b>STATUTORY COUNTY RECORDER'S FUND (STO)</b>	(10 Mo.)		
<b><u>Income</u> from County Recorder of Deeds: \$2 Recording Fee (Section 59.800)</b>	Unknown	Unknown	Unknown
<b><u>Transfer</u> to Certain Counties GR Fund: from \$2 fee. For subsidies</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>ESTIMATED NET EFFECT TO STATUTORY COUNTY RECORDER'S FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>



<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>ESTIMATED NET EFFECT TO COUNTY RECORDER'S FUND **</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

**\* Oversight assumes the Unknown income from fees provided for in Sections 59.800 and 400.9-525 would be in an amount sufficient to defray all Unknown costs or loss of income. Therefore, Oversight assumes that they will offset each other resulting in a zero fiscal impact.**

**\*\* County Employees Retirement System is not considered local funds for fiscal note purposes, therefore, fiscal impact does not include CERF's statement of fiscal impact, please see assumption section for explanation.**

FISCAL IMPACT - Small Business

Section 59.800 provides for an increase of \$5 per instrument recorded pursuant to Section 59.330, Subdivisions (1) and (2). Therefore, small businesses would be impacted to the extent when they would file a certain instrument with the Recorder of Deeds they would pay an additional \$5 fee.

DESCRIPTION

This act revises various business procedures regulated by the Secretary of State.

**ELECTRONIC DOCUMENTS** - Any statutory requirement that a document filed with the Secretary of State be signed, will be satisfied by an electronically transmitted identification in a format prescribed by the Secretary of State. The Secretary of State is given authority to promulgate rules regarding these provisions.

**RECORDER OF DEEDS** - Allows the governing body of the county rather than the voters to separate the office of the Circuit Clerk and Recorder of Deeds in counties of the second class. The Recorder of Deeds and the Circuit Clerk will then be elected. Every Recorder of Deeds shall be liable on their official bond for all fees collected and not accounted for. An additional fee of \$7 dollars is authorized for all recordings and its distribution is specified.

In Marion County the Circuit Court is allowed to appoint the Circuit Clerk as ex officio Recorder of Deeds.

## DESCRIPTION

SECRETARY OF STATE'S TECHNOLOGY TRUST FUND ACCOUNT - This act sets a new termination date for the collection of additional fees to be deposited in the Secretary of State's Technology Trust Fund Account of December 31, 2009. Under current law these fees will expire on December 31, 2001.

LIMITED LIABILITY COMPANIES - Any limited liability company that owns or rents real property in Kansas City must file an affidavit with the City Clerk that specifies a person with management control.

CORPORATIONS - This act would allow a correction to an annual registration report to be filed if the information on file has changed after the report has been filed and before the next report is due. Notice requirements for a postponed meeting are changed and state that notice of the new date and place will be provided to shareholders and it may be by public notice. The previous language required public notice.

This act provides a designation of "constituent corporation" for corporations proposing to merge or those corporations proposing to consolidate. Articles of merger or consolidation shall be filed with the Secretary of State and shall be effective pursuant to Section 351.048, RSMo (usually the date it is filed). The act also provides which documentation shall be necessary for a consolidation or merger of a foreign corporation to become effective in this state.

UNIFORM COMMERCIAL CODE - This act substantially revises Article 9 of the Uniform Commercial Code regulating secured transactions. The scope of Article 9 is expanded to include additional types of property in which a security interest can be taken by a creditor and additional kinds of collateral, including sales of payment intangibles and promissory notes, security interests created by governmental debtors, health insurance receivables, consignments, and commercial tort claims.

The act clarifies that filing a financing statement perfects a security interest, even if another method of perfection exists. Current law authorizes control, in which the debtor cannot transfer the property without the creditor's consent, as the method of perfection for only investment property. The act also allows control as a method of perfection for letter of credit rights and deposit accounts. Automatic perfection for a purchase money security interest is increased from the current ten days to twenty days. Attachment of a purchase money security interest is perfection for the duration of the twenty-day period, then another method of perfection is necessary to continue the perfected security interest. A purchase money security interest in consumer goods, however, remains perfected automatically for the duration of the security interest.

## DESCRIPTION

Current law establishes a basic choice of law rule, as to which state's law governs perfection, its effect, and a creditor's priority, of the state in which the collateral is found. The act chooses the state that is the location of the debtor. If the debtor is an entity created by state registration, the location of the debtor is the location in which the entity is created by registration. If the entity is a corporation, the location of the debtor is the state in which the corporate charter is filed or registered.

The act allows the transition from paper filing to electronic filing. The only local filing of financing statements occurs in the real estate records for fixtures; all other filings are centralized with the Secretary of State's office.

The act changes certain aspects of enforcing a security interest that is included in a consumer transaction: a consumer cannot waive redemption rights in a financing agreement; a consumer is entitled to disclosure of the amount of any deficiency assessed against him or her; a consumer buyer of goods who pre-pays in whole or in part has an enforceable interest in the purchased goods and may obtain the goods as a remedy; and a secured creditor cannot accept collateral as partial satisfaction of a consumer obligation.

The act also provides new rules for guarantors, for the interests of subordinate creditors with security interests in the same property, and for aspects of enforcement when the debtor is a consumer debtor.

The act provides rules for disposition of secured property. Conditions for pre-effective date financing statements are established. Procedures for dealing with former article 9 records are established. The repeal of the existing Article 9 provisions and the enactment of the new provisions take effect July 1, 2001.

**NON SOLICITATION AGREEMENTS** - This act makes written non- solicitation agreements enforceable.

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

Department of Revenue  
Office of Administration  
Department of Economic Development  
Department of Insurance  
Department of Labor and Industrial Relations  
Office of State Courts Administrator  
Department of Agriculture  
Office of Secretary of State  
Office of State Treasurer



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