

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

**BILL NO.** Senate Bill 304

**PRINTER'S NO.** 212

### **AMOUNT**

\$433,916 Net revenue increase annually

\$119,042 Net revenue increase annually

(\$84,000) to (\$157,500) Est. cost savings annually

(\$36,000) to (\$67,500) Est. cost savings annually

### **FUND**

General Fund

Corporate Bureau Restricted Account

General Fund

Corporate Bureau Restricted Account

### **DATE INTRODUCED**

January 24, 2013

### **PRIME SPONSOR**

Senator Greenleaf

### **HISTORY OF BILL**

Referred to JUDICIARY, Jan. 24, 2013

Reported as committed, Jan. 29, 2013

First consideration, Jan. 29, 2013

Second consideration, Jan. 30, 2013

Re-referred to APPROPRIATIONS, Jan. 30, 2013

Re-reported as committed, April 29, 2013

### **DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 304 amends the Associations Code, Title 15, and Title 54 (Names) of the Pennsylvania Consolidated Statutes, to complete the codification of the Nonprofit Corporation Law (Title 15, Part II, Subpart C).

The Nonprofit Corporation Law is revised to update the law and make it consistent with the Business Corporation Law (Title 15, Part II, Subpart B). Revisions are made in the Nonprofit Corporation Law so that nonprofit corporations may make use of electronic communications technology to provide for meeting notices, granting of proxies, and acting by consent without a meeting. Updates are made to Business Corporation Law provisions relating to electronic communications to make those provisions and the Nonprofit Corporation Law provisions the same.

The bill also makes changes to filings with the Department of State's Corporation Bureau. The Corporation Bureau's filing fee schedule in Section 153 of Title 15 is from the Administrative Code. The fees remain the same. A filing fee schedule for an additional expedited service by the Corporation Bureau has been added to Section 153. However, these fees will not take effect until the Department of State is ready to provide expedited services and notice is published in the PA Bulletin. The bill provides that business entity filing fees will no longer be eligible for refunds.

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The bill also enacts the Pennsylvania Uniform Unincorporated Nonprofit Association Law (PUUNAL). The PUUNAL will govern any unincorporated nonprofit association that is formed or operated in Pennsylvania. The bill provides a definition of an unincorporated nonprofit association and specifies what is not included in the definition. It provides that the law of jurisdiction in which a nonprofit association has its main place of activities governs the affairs of the association. The bill recognizes nonprofit associations as legal entities separate from their members and managers. Members, managers and governing principles are defined in the bill. The proposed language of the PUUNAL adopts the 2008 version of the National Conference of Commissioners on Uniform State Laws' Uniform Unincorporated Nonprofit Association Act.

Normally, an unincorporated nonprofit association would have no need to register with the Department of State's Corporation Bureau. However, the PUUNAL recognizes that there may be a few nonprofit associations which would register for the purpose of appointing an agent to receive service of process so fees that are comparable to similar fees paid by other business entities are listed in Section 153.

Generally, this act takes effect in 60 days.

### **FISCAL IMPACT:**

Under the bill, certain filings which are limited in purpose to updating addresses, have been deleted from the definition of ancillary transactions, and thus, the fees for such filings have been reduced from \$70 to \$5. Assuming the number of filings would remain at the 2012 level, the reduction of the fee for change of address filings would result in an annual revenue loss of about \$412,955. Because 70% of business processing revenues are deposited in the General Fund, this would be a \$289,069 revenue loss to the General Fund. This would be about a \$123,886 revenue loss to the Corporation Bureau restricted account. The Bureau anticipates that the reduced fee could result in a greater number of entities filing for address changes but it is difficult to project the actual number of additional filings that could occur and the resultant impact on revenue.

When the Corporation Bureau offers expedited services for certain filings, additional revenue from fees associated with the different levels of expedited services will be realized. The filings most likely to be expedited will be business formation filings (articles of incorporation/certificates of organization, etc), articles of amendment, mergers and good standing certificates. As noted above, 70% of business processing filing revenue is deposited in the General Fund. 95% of the Uniform Commercial Code filing fees are deposited in the General Fund. The Bureau estimates that if 2% of current corporate filings (3,278 filings) are expedited, additional annual revenue of \$778,525 is possible. \$544,967 would be deposited into the General Fund and the remainder of \$233,558 would be deposited in the Corporation Bureau Restricted Account. For the Uniform Commercial Code (UCC) filings, the Bureau estimates that if 0.5% of the current

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UCC filings (789 filings) are expedited additional annual revenue of \$187,388 is possible. \$178,018 of the UCC expedited filing revenues would be deposited into the General Fund and \$9,370 would be deposited into the Corporation Bureau Restricted Account.

Based on the estimates above, there would be an annual net revenue increase of \$433,916 to the General Fund and \$119,042 to the Corporation Bureau Restricted Account if the Department of State offered the expedited filing services provided for in the bill.

Over the last six years, the Bureau has annually received between 633 and 1,484 refund requests for business entity filing fees. Based on the total amount of refunds granted in each of these years, cost savings from making business entity filing fees nonrefundable will be about \$120,000 to \$225,000, annually. Seventy percent (\$84,000 to \$157,500) of these savings would be realized in the General Fund; 30% (\$36,000 to \$67,500) would be realized in the Corporation Bureau Restricted Account.

An unincorporated nonprofit association may choose but is not required by the bill to file statements appointing an agent to receive service of process and amendment, cancellation of the statement or resignation of the agent. The new filing fees will generate additional revenue for the Bureau, of which 70% will be deposited in the General Fund and 30% will be retained in the Corporation Bureau Restricted Account. However, the Department of State confirms that it is not possible to predict how many unincorporated nonprofit associations will elect to file this document.