

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 1305 (Second Edition)

**SHORT TITLE:** Revise Article 9 of the UCC

**SPONSOR(S):** Senator Hartsell

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2000-01</u></b>	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>
<b>REVENUES</b>					
General Fund					
Secretary of State	\$3,926,055	\$8,804,529	\$8,804,529	\$8,804,529	\$8,804,529
County revenues	(\$240,155)	(\$1,915,067)	(\$1,915,067)	(\$1,915,067)	(\$1,915,067)
<b>EXPENDITURES</b>					
General Fund					
Secretary of State	\$868,664 R	\$1,804,557	\$1,804,557	\$1,804,557	\$1,804,557
	<u>\$1,891,004 NR</u>				
Total G.F.	\$2,759,668	\$1,804,557	\$1,804,557	\$1,804,557	\$1,804,557
<b>POSITIONS:</b>	41	41	41	41	41
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of the Secretary of State; County Registers of Deeds					
<b>EFFECTIVE DATE:</b> Part IV (fee increase) is effective September 1, 2000 and applies to fees paid on or after that date. Parts I, II, and III become effective July 1, 2001. The remainder of the bill is effective when it becomes law.					

**BILL SUMMARY:** This bill rewrites Article 9 of the Uniform Commercial Code to conform state law to revisions adopted by the National Conference of Commissioners on Uniform State Laws. One major change is a requirement that all financing statements be filed with the Secretary of State except for fixture filings, which will continue to be filed with county Registers of Deeds. The bill also increases filing fees from \$15 to \$30.

## ASSUMPTIONS AND METHODOLOGY:

### ***EXPENDITURES:***

This bill will transfer all of the Uniform Commercial Code (UCC) filings except fixture and timber/mineral filings from the county Registers of Deeds to the Secretary of State. The North Carolina Association of Register of Deeds (NCARD) reported 209,635 UCC filings in county offices in FY 1998-99. The Secretary of State sampled 10,000 filings in eight counties and determined that they receive approximately 24% of the filings made in the counties. Also, NCARD estimates that 31,405 (or 15%) of the county filings are the fixture and timber/mineral filings which will continue to be filed in the counties. Accordingly, the Secretary of State expects they will receive an additional 61% (100% - 24% duplicates - 15% retained in the county) or 127,713 of the filings that under current law are filed in the counties. In addition, SB 1305 also requires the Secretary of State to file liens on manufactured housing. The Secretary of State estimates based on discussions with the Department of Motor Vehicles they would receive approximately 50,000 manufactured housing filings. The 127,713 filings transferred from the counties and the new manufactured housing filings total 177,713. The UCC Section within Secretary of State's Certification and Filing Division currently processes 140,000 filings per year. The 177,713 projected increase is a 127% increase over the existing workload.

Currently, there are 29 employees in the UCC section. Twenty-five of the employees process the 140,000 annual filings. This equates to 5,600 filings per employee. The remaining 4 employees provide management and support services. To handle the increased workload in a timely manner, the Secretary of State estimates it will need 45 additional positions in the UCC section beginning January 1, 2001 for a total UCC staff of 74. Of the 74 employees, 11 will provide management and program support and 63 will process the estimated 317,713 annual filings. This equates to 5,043 filings per employee, a 10% decrease from the current ratio. Because the Secretary of State plans to implement double-key verification as recommended by the model rules, the turnaround time for processing each filing will increase. Therefore, the filing per employee ratio for their requested level of staffing is lower than the existing ratio.

The requested staffing of the UCC section would be as follows:

<b>Positions</b>	<b>Current</b>	<b>Additional</b>	<b>Total</b>
Director	0	1	1
Assistant Director	0	1	1
Executive Assistant	0	1	1
Applications Analyst Programmer	0	1	1
Administrative Assistant	2	3	5
Staff Development Specialist	0	1	1
Administrative Officer	2	3	5
Information Processing Technician		8	8
Processing Assistant V	25	25	50
Mail Clerk	0	1	1
<b>Total</b>	<b>29</b>	<b>45</b>	<b>74</b>

To house and equip UCC staff, the Secretary of State requests the following one-time expenditures:

Computers	\$398,504
Office Equipment	\$61,264
Contractual Services (programming, etc.)	\$351,490
Rent/Lease Building	\$231,500
Office Furniture	<u>\$955,772</u>
<b>Total</b>	<b>\$1,998,530</b>

The first year and annualized recurring cost for the 45 positions is as follows:

	<u>2000-2001</u>	<u>2001-2002</u>
Salaries	\$621,166	\$1,242,332
Benefits	\$153,377	\$306,752
Office equipment	\$30,600	\$30,600
Telephone service	\$19,500	\$39,000
Office supplies	\$10,325	\$20,650
Rent/Lease	\$112,500	\$225,000
Contractual services	\$40,000	\$40,000
Maintenance agreement	\$40,000	\$40,000
Travel	\$15,500	\$10,000
<b>Total</b>	<b>\$1,042,968</b>	
<b>Total</b>	<b>\$3,041,498</b>	<b>\$1,954,334</b>

Some of the major components of the nonrecurring costs include

- Computer cost for 51 computer systems for the 45 new positions and six for public use (\$187,629); 15 laser printers (\$3,375), 2 high volume scanners (\$20,000), and 25 desktop scanners (\$37,500);
- Office equipment cost for 2 copiers (\$31,500), a fax machine (\$2,500), 5 reader printers (\$30,600), 74 telephones (\$22,000);
- Office furniture cost for upfitting 12 offices (\$194,699), 67 cubicles (\$550,364), a training room (\$44,335), a smaller conference room (\$8,115), a public reception/work area and a break area (\$70,389), and vendor charges for design, delivery installation, and taxes (\$87,867); and
- Contractual services for electronic data interchange programming, implementation, and software.

The Secretary of State has been advised that there is no additional space in state owned buildings. Thus the estimate as summarized above includes the lease, contractual service, equipment, and furniture cost of leasing space effective January 1, 2001, moving the existing

employees to the new facility and outfitting the location. Also, the estimate includes the cost of implementing an electronic data interchange system that would allow for the electronic vs. paper submission of financing statements and the cost to convert microfilm to optical images that can be accessed via the Internet.

The Fiscal Research Division believes the driving cost factor in this bill is the number of additional filings at the state level. We further believe that the method by which the Secretary of State projected the increased number of filings is reasonable. However, there are unknown factors that may impact the actual increase in workload. For example, SB 1305 will eliminate the need to file in this state if the debtor is not a resident of the state, thereby decreasing the number of filings. It will also transfer to the state filings of resident debtors who have property located outside of the state, thereby increasing the number of filings. We have no data to indicate the impact this will have on the number of filings. Also, the Secretary of State's sample data indicates that 24% of the current county filings are duplicated at the state level. However, the sample data revealed that duplicate filings in the 8 counties sampled range from 11% to as high as 55%. Thus, it is possible that the number of duplicate filings may be somewhat higher than the estimated 24% upon which the increased filing projection is based. If this were so, the additional workload would be less than expected. Notwithstanding these unknown factors, we believe the projected increase in filings is reasonable based on the best available data and that only actual experience with the bill will reveal the true extent of its impact on the workload.

Because the projections indicate a substantial increase (approximately 127%) in the Secretary of State's workload, Fiscal Research believes that it is imperative that the office is reasonably prepared to handle the increase. It is necessary to hire and train staff before the bill is implemented. We believe that 41 additional positions will provide adequate staffing to handle the anticipated increased workload. Considering the July 1, 2001 effective date of the bill and the pre-filings, which are expected to start in January 2001, we believe that funding should be provided to allow the Secretary of State to establish the positions in phases. The 41 positions along with the recommended effective hiring dates are noted in the table below.

<b>Positions</b>	<b>FRD's Additional Staffing Recommendation</b>	<b>Effective Date</b>	<b>Total Including Existing Staff</b>
Director	1	Oct 1, 2000	1
Assistant Director	0		0
Executive Assistant	1	Oct 1, 2000	1
Applications Analyst Programmer	1	Oct 1, 2000	1
Administrative Assistant	2	Jan 1/Apr 1	4
Staff Development Specialist	1	Oct 1, 2000	1
Administrative Officer	2	Jan 1/Apr 1	4
Information Processing Technician	8	Jan 1/Apr 1	8
Processing Assistant V	24	Jan 1/Apr 1	49
Mail Clerk	1	Jan 1, 2001	1
<b>Total</b>	<b>41</b>		<b>70</b>

We believe the management and support positions for the director, the executive assistant, the applications analyst programmer and the staff development specialist should be effective October 1, 2000. This will allow the critical management and support positions to participate in the development of the department's plan for implementing the bill, training, hiring, making necessary programming changes and developing/testing/implementing the electronic data interchange system prior to the start of the increased workflow. We also recommend establishing 1 administrative assistant position, 1 administrative officer position, 4 information processing technicians, 12 processing assistant IVs, and the mail clerk position with an effective date of January 1, 2001 to handle the increased workload from the pre-filings. The remaining administrative assistant position, administrative officer position, 4 information processing technicians, and 12 processing assistant IVs should be established with an effective date no earlier than April 1, 2001. We believe this phase-in will enable to the Department to handle pre-filings and it will also allow time for the staff to receive adequate training before the bill becomes effective.

The total number of recommended positions is 4 less than the Department's estimate. We are not recommending funding for the assistant director position at this time. Further, we are recommending funding for two administrative assistants instead of three, two administrative officers instead of three, and 24 processing assistants instead of 25. This level of additional staff along with the existing staff would provide 61 employees to process filings, 4 management staff and 5 support positions. This equates to a 1 to 15 management to staff ratio and a 1 to 15 support to staff ratio. These ratios are just slightly higher than the existing ratio. Also, the filing/employee ratio would be approximately 5,208 per employee. This ratio is slightly higher than the 5,043 filings per employee ratio with the staff level as requested by the Secretary of State. However, the ratio is lower than the existing ratio and we believe it will facilitate a timely turnaround time with double-key verification.

We have adjusted the Secretary of State's estimate to reflect the number of positions noted and the effective dates. The total of the personnel cost would be \$600,239 recurring the first year and \$1,399,307 in subsequent years. We estimate the nonrecurring operating cost to be \$1,891,004 and the recurring cost to be \$268,425 the first year and \$405,250 in subsequent years. These costs are summarized in the table below.

	<b>FY 2000-2001</b>	<b>FY 2001-2002</b>
Salaries	\$482,224	\$1,121,534
Benefits	\$118,015	\$277,773
<b>Total Personnel</b>	<b>\$600,239</b>	<b>\$1,399,307</b>
Operating Cost		
Recurring	\$268,425	\$405,250
Nonrecurring	\$1,891,004	
<b>Total Operating</b>	<b>\$2,159,429</b>	<b>\$405,250</b>
<b>Total Cost</b>	<b>\$2,759,668</b>	<b>\$1,804,557</b>

As noted above, we believe the driving cost factor in this bill is the number of additional filings which will be made at the state level. Though, we believe the projected number of additional

filings is reasonable, we believe also that only actual experience with the bill will reveal the true extent of the increased workload. Experience will also reveal the actual level of staff needed to process the filings in a timely manner and to provide an adequate level of management and support. Because actual staffing needs based on experience may vary from the projected staffing needs, we recommend that the Secretary of State consider establishing a number of temporary or time limited positions until experience with the bill reveals what the true filing activity will be. This will eliminate having an excess number of permanent positions should experience reveal a lower staffing need. We further recommend that the Secretary of State report on its experience with the bill to the Joint Legislative Commission on Governmental Operations on a quarterly basis beginning no later than October 1, 2000. The report should include, but is not limited to, the following: the status of filling the positions, the number of filings, the turnaround time for processing the filings, the filings per employee ratio, any needed adjustments to the staffing level, and the projected revenue from the filing fees.

### ***REVENUE:***

#### **I. Counties**

As stated above, there were 209,365 UCC filings in county offices in FY 1998-99. SB 1305 will transfer all filings except fixtures and timber/minerals filings from the counties to the Secretary of State. Ann Shaw, President of the North Carolina Association of Registers of Deeds, estimates that counties will retain only 15% of the current UCC filings. The 209,365 UCC filings in FY 1998-99 generated \$2,857,217 (9% of the filings were terminations that were charged no fee). After the transfer to the state, it is estimated that only 31,405 filings will remain in the counties for revenues of \$471,075. This is a loss of \$2,386,142 to county general funds. Part of the loss is offset by an increase in the fee from \$15 to \$30. The counties will recoup \$471,075 from the fee increase. The net impact to counties is \$1.9 million per year. Additional fees could be received from multiple page filings, but there is no data on the number of such filings in the counties.

One complication is that the bill allows pre-filing of documents prior to July 1, 2001. State and county officials cannot estimate the impact of this provision. This memo assumes half of those that usually file in the county will chose to file with the state in FY 2000-01. Counties will receive the new fee for half the non-fixture filings (88,980) for additional revenue of \$1,334,700 in FY 2000-01. Adjusting this for the September effective date (10 months) gives a revenue projection of \$2,617,062. The net revenue loss for FY 2000-01 is \$240,155.

#### **II. Secretary of State**

The Secretary of State currently has 140,000 UCC filings. Of this total, 80% are charged \$15 and 20% are charged no fee. The approximate revenues are \$1,680,000. Under SB 1305, the Secretary of State will receive 317,713 filings annually. At a minimum of \$30 per filing, this workload will generate \$9,531,390 in revenue. It is estimated that 20% of these filings will have additional pages that will require an additional \$15 fee. This would yield an additional \$953,139 in revenue. The net increase for the General Fund will be approximately \$8,804,529.

As stated above, half the filings now done in the counties will be pre-filed with the Secretary of State thus new revenues in FY 2000-01 will be \$1,915,695 (63,857 filings X \$30). The Secretary of State will also receive a fee increase starting in September 2000. The current 140,000 filings charged a fee of \$30 will produce \$4.2 million. The prefilings plus the increased fee revenue minus the current revenue of \$1.68 million yields net revenue of \$4.44 million in FY 2000-01.

Adjusting the 203,857 estimated filings for only ten months of increased fees in FY 2000-01 reduces additional first year revenues to \$3.9 million.

**TECHNICAL CONSIDERATIONS:**

**FISCAL RESEARCH DIVISION 733-4910**

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**DATE:** June 28, 2000



**Signed Copy Located in the NCGA Principal Clerk's Offices**