

HOUSE BILL REPORT

SSB 5492

As Reported By House Committee On:
Judiciary

Title: An act relating to fees paid to the secretary of state's office.

Brief Description: Authorizing the secretary of state to set fees by rule.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Spanel, Snyder, Nelson and M. Rasmussen; by request of Secretary of State).

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: Corporations must file a variety of documents with the secretary of state. The secretary of state charges fees for filing and copying services. The amounts of fees are established in statute.

Examples of current fees for certain services for profit corporations are as follows:

- Application for reinstatement: \$50
- Articles of correction, amendment, restatement, merger or share exchange, revocation or dissolution, application for amended certificate of authority: \$25
- Application for reservation, registration, or assignment of reserved name: \$20

- Change of registered agent or office, agent's resignation, and initial report: \$10
- Service of process: \$25
- Certified copies of documents: \$10
- Copies of documents: \$1 for the first page and 20 cents for each page thereafter
- Surcharge on reinstatement request: 25 percent of fees due had corporation been active during period of revocation

Similar fees are charged for services for nonprofit corporations.

Credit unions filing articles of incorporation must pay a \$5 fee. Savings and loans filing articles of incorporation or amendments must pay \$10.

Charitable organizations, independent fund-raisers and nonprofit fund-raisers annually provide information to the secretary of state on fund-raising activities. Information filed by charitable fund-raisers and charitable trusts is available to the public.

Nonresidents who use the state's highways impliedly deem the secretary of state to be the driver's attorney for purposes of service of process. The fee for service of process on the secretary of state is \$25.

Currently, the secretary of state is not explicitly authorized to allow the use of credit or debit cards for payment of fees.

The secretary of state may charge fees for a variety of other services, such as \$5 for a certificate under seal and \$50 for filing and recording a trademark.

Summary of Amended Bill: The secretary of state may establish by rule the amounts of fees for corporations filings concerning: corrections, amendments, or restatement of articles of incorporation; articles of merger or share exchange, revocation or dissolution; application for amended certificate of authority or reservation, registration or assignment of reserved name; and changes of registered agent. The amount of allowable fees are limited to an amount that does not exceed the cost of providing services.

The secretary of state may also set fees by administrative rule for furnishing copies of documents.

Annual license fees for inactive corporations are set at \$10 rather than \$50.

Fees for filing articles of incorporation for credit unions and savings and loan associations are increased to \$20.

The secretary of state may establish fees for services related to charitable trusts and solicitations.

The secretary of state may set by rule fees for accepting services of process for nonresident drivers.

The secretary of state may accept credit card payment for fees charged.

All fees pertaining to articles of incorporation, application for certificate of authority, application of a foreign corporation for a certificate of authority to conduct affairs in this state, and annual fees remain established by statute.

The secretary of state may also establish fees by rule for miscellaneous services, such as providing certificates under seal or recording a trademark.

Amended Bill Compared to Substitute Bill: The provisions are stricken and replaced with the provisions of SHB 1704 as passed the House, except as follows: (1) A provision inadvertently deleted allowing the secretary of state to set by rule copying costs for miscellaneous corporations is added; and (2) A provision which provided that fees collected from administration of charitable trusts and solicitations would be placed in the secretary of state's revolving fund is deleted. As amended, a cap is placed on the amount of fees the secretary of state may establish by rule. The fees for inactive corporations is lowered to \$10. Minor technical provisions are added.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect July 1, 1993.

Testimony For: The Efficiency Commission made recommendations to improve the secretary of state's operations. These recommendations, as modified by the Legislature, are reflected in the bill.

Testimony Against: Allowing the secretary of state to set fees by rule creates concern that the fees will be set too high and that other agencies will request similar powers.

Businesses prefer that the Legislature set the amount of fees.

Witnesses: Ralph Munro, Secretary of State (pro); Becky Sisler, Secretary of State's Office (pro); and Tony Meinhardt, Independent Business Association (with concerns).