

FISCAL NOTE
Requested by Legislative Council
01/19/2015

Amendment to: SB 2252

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill relates to Business registration administrative functions. No fiscal impact.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

None

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

None

Name: Al Jaeger

Agency: Secretary of State

Telephone: 701-328-2900

Date Prepared: 01/19/2015

FISCAL NOTE
Requested by Legislative Council
01/19/2015

Bill/Resolution No.: SB 2252

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None

Name: Al Jaeger

Agency: Secretary of State

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Date Prepared: 01/19/2015

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2252

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2252
2/6/2015
Job # 23376

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact two new sections to chapter 54-09 of the North Dakota Century Code, relating to the role of the secretary of state in filing signed documents or records, an agent signing documents, or records filed with the secretary of state; and to provide a penalty.

Minutes:

Attachments 1

Senator Dever: Opened the hearing on SB 2252.

Senator Luick, District 25: Testified as sponsor and to introduce the bill. This bill provides protection the Secretary of State's office. It has to do with questionable signatures on documentation and they will explain the bill to you.

Senator Nelson: What are the penalties for perjury?

Senator Luick: I can't tell you that, but others can tell you.

Clara Jenkins, Secretary of State's office: See Attachment #1 for testimony in support of the bill.

(5:25)Chairman Dever: Reads under 12.1-11 from code on perjury. It appears that depending on the circumstance, it would either be a class C felony or a class A misdemeanor.

Al Jaeger, Secretary of State: Testified to respond to the question on perjury. I think it is important to keep it in context. Our office is not the prosecutor on any of that. If a document does come in and it is fraudulently signed, it is something that the company can go and have criminal charges filed. It is nothing that we pursue. It is something that protects the business owner. It is a private remedy for the business to settle through the court system.

Senator Nelson: How often do LLC's have to update their records?

Al Jaeger: At this point, in uniform law they will have the opportunity to file something with us indicating that certain people are authorized to sign on behalf of the LLC. Otherwise they have their annual report that they file with us. There is not anything in that annual report other than

listing their officers and what have you. An LLC can be one person. In term of updating, there is not really any updating. If the Senate passes the bill that is referenced in the testimony, that is entirely an option for an LLC if they want to put that on record. If they do that, the law doesn't also require that it be kept current and what we would have as a concern is that we get thousands of documents in and if we had to contact all of them and make sure that the signatures are valid. This is just to indicate that there is no liability on the part of the state because they did not verify the signature.

Senator Davison: The bill sounds reasonable to me. You have been doing this for years and why now?

Al Jaeger: In part, it is because this is that option of filing to the state that is in that limited liability company bill. It kind of created awareness on our part. We have strived over the years to be consistent in our administration. This is blanket coverage for everything. We want to make sure we have the same procedures covering all of the operations of our office.

Chairman Dever: So, in my business I am an independent business and my sales territory is the state of North Dakota but I am a sub-rep of my principle rep that is in Minneapolis and they are registered to do business in North Dakota. Annually when that is sent, it is sent to me and then I send to them and they fill it out and send it in. If I had their authority, would this give me the authority to sign?

Al Jaeger: That is correct. That was the intent. In the annual report you would sign as an agent under that company. If it were discovered that you were not an agent, it would not be us that is liable for that, it is your employer or whomever going against you.

Chairman Dever: Closed the hearing on SB 2252.

Senator Davison: Moved Amendments to remove lines 9 to 12 on Page 2.

Senator Nelson: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Davison Moved A Do Pass As Amended.

Senator Marcellais: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Davison will carry the bill.

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Title.02000

Adopted by the Government and Veterans
Affairs Committee
February 6, 2015

*2/6/15
Jave*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2252

Page 2, remove lines 9 through 12

Renumber accordingly

Date: 2/6
 Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate Government and Veterans Affairs 2252 Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Davison Seconded By Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	Ab				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Davison

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2252: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2252 was placed
on the Sixth order on the calendar.

Page 2, remove lines 9 through 12

Renumber accordingly

2015 HOUSE HUMAN SERVICES

SB 2252

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

SB 2252
3/13/2015
24797

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the role of the secretary of state in filing signed documents or records, an agent signing documents, or records filed with the secretary of state

Minutes:

Attachment 1

Chairman Kasper opened the hearing on SB 2252.

Senator Larry Luick appeared in support. This is a bill that comes from the Secretary of State's Office, and the purpose is to give the Secretary of State's Office a little bit more protection against the possibility of misused authorization or signatures on forms.

Rep. Steiner Do you know why there was one negative vote on the committee?

Senator Luick I do not know.

Clara Jenkins, Behalf of Al Jaeger, Secretary of State's Office, appeared. Attachment 1 (2:21-5:11)

Rep. M. Johnson Chapter 54-09 is within the Uniform Limited Liability law?

Clara Jenkins 54-09 is the chapter related to the Secretary of State. The chapter related to the LLC Act is 10-32 which is being replaced with HB 1136, and will become 10-32.1.

Rep. M. Johnson 54 only regards businesses?

Clara Jenkins 54-09 is the section related to the Secretary of State, and one of the duties of the Secretary of State is to file and maintain the records of all businesses that are administered through various chapters in Century Code.

Rep. M. Johnson 54 regards businesses?

Clara Jenkins 54-09 is related to the Secretary of State and the duties of the Secretary of State which is relating to the businesses.

Rep. M. Johnson Initiated measures, petitions, and all those things that are reviewed by the Secretary of State?

Clara Jenkins Yes. This does not have any relation to petitions.

No opposition or neutral.

The hearing was closed.

Rep. Karls made a motion for a DO PASS.

Rep. M. Johnson seconded the motion.

Rep. Steiner Are we included in this, or is it LLC only?

Clara Jenkins This bill will cover any signatures that submitted electronically through any utilities or documents filed with the Secretary of State.

Rep. Steiner Would I have to submit you my authorization first and a copy of my signature first so you can match them up?

Clara Jenkins No. You will submit your document. When your document comes in that you have signed or accepted this record, we will accept your statement at face value that you are who you say you are.

A roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent.

Rep. Schneider will carry the bill.

Date: 3-13-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2252**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Karls Seconded By Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chair Karen Rohr	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Mary Schneider	X	
Rep. Mary C. Johnson	X		Rep. Kris Wallman	X	
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Schneider

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2252, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2252 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2252

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL sos@nd.gov

SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

February 6, 2015

TO: Senator Dever and Members of the Senate Government and Veterans Affairs Committee

FR: Clara Jenkins, on behalf of Al Jaeger, Secretary of State

RE: SB 2252 – Relating to the role of the Secretary of State in filing signed documents

In part, this bill was introduced to correlate with comparable provisions in HB 1136, which is the Uniform Limited Liability (LLC) Act. It was passed by the House on January 26 by a vote of 91 to 1.

The uniform LLC act contains provisions enabling a LLC to file an "optional" Authorization Statement creating a public record listing the names of individuals within the organization who are allowed to sign documents with the secretary of state, financially encumber the organization, sign contracts, and any other significant acts binding the LLC. While it is unknown how many Limited Liability Companies might file an Authorization Statement with the Secretary of State, it is an option that will be available to them.

However, this option also created awareness on the part of the Secretary of State's office that it would be prudent to have a long standing processing procedure stated in state law. That is, when documents are submitted to the Secretary of State, the agency does not now nor would it be required in the future to make any determination that the individual who signed the document was authorized to execute it on behalf of the filing business entity.

For example, while a LLC will have an option to file an Authorization Statement with the Secretary of State, the uniform law does not require it be updated when listed individuals are no longer with the firm.

Therefore, the intent of Section 1 is to clearly state that the Secretary of State is not required to determine the authority of an individual, on behalf of any filer, who signs a document that is filed with the Secretary of State. To do otherwise would involve contacting the signer on each one of thousands of documents filed with the Secretary of State. Having this stipulation in the law will be particularly important as the agency ultimately moves to the online filing of documents.

To protect the business entity, Subsection 1 of Section 2 of the bill provides that if an individual without authority to sign for a filer does so, the unauthorized signer would be subject to penalties of perjury or making a false statement as set forth in current law.

Subsections 2 and 3 of Section 2 provides an option to allow a person, as an agent, to file on behalf of a filer if the signer discloses that they are acting as agent for the individual that is authorized to sign.

The Secretary of State requests the committee's consideration in adopting the attached amendment to delete lines 9 through 12 on page 2 because these lines are an inadvertent duplication of lines 9 through 12 on page 1.

1 Pg 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2252

Page 2, remove lines 9 through 12

ALVIN A. JAEGER
SECRETARY OF STATE
HOME PAGE www.nd.gov/sos



SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 13, 2015

#1 2252
3-13-15

PHONE (701) 328-2900
FAX (701) 328-2992
E-MAIL sos@nd.gov

TO: Rep Kasper and Members of the House Government and Veterans Affairs Committee

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For example, while a LLC will have an option to file an Authorization Statement with the Secretary of State, the uniform law (adopted in HB 1136) does not require it be updated when listed individuals are no longer with the firm.

Section 1, page 1, lines 6 through 12: This section clearly states that the Secretary of State is not required to determine the authority of an individual, on behalf of any filer, who signs a document that is filed with the Secretary of State. To do otherwise would involve contacting the signer on each one of thousands of documents filed with the Secretary of State. Having this stipulation in the law will be particularly important as the agency ultimately moves to the online filing of documents.

Section 2, Subsection 1, page 1, lines 15 through 19: To protect the business entity from fraudulent activity, this section provides that if an individual without authority to sign for a filer does so, the unauthorized signer would be subject to penalties of perjury or making a false statement as set forth in current law.

Section 2, Subsections 2 and 3, page 1, lines 20 through 23 and page 2, lines 1 through 8: These two sections provides an option to allow a person, as an agent, to file on behalf of a filer if the signer discloses that they are acting as agent for the individual that is authorized to sign.