SESSION OF 2005

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 37

As Agreed to March 31, 2005

Brief*

SB 37, as amended, would make a number of changes to provisions relating to the franchise fee collected by the Kansas Secretary of State, effective January 1, 2006. The bill would rename the annual $40 fee from" franchise fee" to "report fee"; would eliminate extensions of time for entities to file their annual reports with the Secretary of State; and would repeal requirements that annual reports need to reflect the financial condition of the entities.

Additional provisions would eliminate the reporting of residential addresses for officers and directors of corporations; eliminate reporting of par value of stock and number of shares of stock; reconcile various provisions relative to different franchise tax and fee bills enacted last session; and provide additional statutory cleanup provisions recommended by the Secretary of State.

Conference Committee Action

The Conference Committee agreed to remove House Taxation Committee amendments that would have changed the disposition of revenue relative to the Secretary of State's $40 report fee to provide that 37.5 percent of such revenues be credited to the Annual Report Filing Fee Fund and 62.5 percent be credited to the State General Fund; and would have prohibited the Secretary of State from charging any additional fees beyond the $40 relative to the filing of annual reports. The Conference Committee further agreed to retain other technical amendments made in House Taxation Committee at the suggestion of the Department of Revenue.

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*Conference Committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at http://www.kslegislature.org

Background

Legislation enacted in 2004 bifurcated the former franchise tax structure into a system whereunder administration of the tax based on shareholder equity or net worth was relocated from the Secretary of State to the Department of Revenue; while the Secretary of State maintained a separate annual franchise fee. SB 37 was introduced at the conclusion of an interim study by the Special Committee on Assessment and Taxation, which was charged with recommending any trailer legislation deemed appropriate to the 2005 Legislature.

The Senate Committee amendment eliminating reporting requirements for residential addresses of officers and directors was suggested by the Kansas Chamber. The repeal of the requirement to report to the Secretary of State on par value of stock and number of shares was suggested by Senator Donovan during Senate Committee discussion. Other Senate Committee amendments prepared by the Secretary of State and Revisor are technical in nature.

A fiscal note on the original bill indicated that the Secretary of State could reduce expenditures by about $8,000 in FY 2006 as a result of fewer staff resources attributable to handling filing extensions.

The Senate Committee originally recommended that the bill be passed as amended on February 2, with an additional amendment that would have eliminated a requirement that parent corporations list subsidiaries on the annual report. On February 9, the Committee reconsidered the action of February 2, returned the bill for discussion, removed the parent-subsidiary amendment, and again recommended that the bill be passed as amended.

The House Committee amended the bill to incorporate additional technical amendments suggested by the Department of Revenue; and to change the disposition of revenues relative to the $40 fee collected by the Secretary of State while simultaneously prohibiting any additional fees from being charged for the filing of annual reports.

The Secretary of State has been charging a $15 administrative filing fee for several years in connection with the filing of annual reports. Under the House Committee amendments, that fee could no longer have been charged but would have been effectively replaced relative to the Secretary of State's budget by the diversion of revenues from the SGF. Based on the most recent data available from the Secretary of State (96,952 entities filing annual reports), those House Committee amendments would have been expected to reduce SGF receipts by about $1.454 million annually.