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STATE OF KANSAS

Testimony: SB251 (Neutral)
Senate Commerce Committee
Tuesday, February 4, 2020

Chairwoman Lynn and members of the Committee:

The Kansas Secretary of State appreciates the opportunity to offer neutral testimony on SB251. The bill would permit business entities required to file annual reports with the Secretary of State to choose whether to file their report annually, biennially or triennially.

The Secretary of State's office supports and is actively working to improve business filing services. Among the items we hope to accomplish is the opportunity to file annual reports on a biannual basis. While we have the shared goal of reducing barriers and making it easier for business to meet their filing requirements, SB251, in its current form, presents several challenges.

SB251 has an effective date of July 1, 2020. Our office is working aggressively to implement a new business filing system to replace the existing AS 400. We anticipate it would take IT staff approximately six months to reprogram the AS 400, which would delay the agency's move to a new business filing system. Changes to annual report filings would need to be duplicated in the new system.

While states have implemented biennial filing, providing multiple due date filing options will make it unclear and potentially confusing for businesses about when annual reports are due. This may be exacerbated if a business elects to change their reporting period as noted below.

Under the bill, a business may notify the Secretary of State if they wish to change from an annual reporting period to a biennial or triennial period. The bill does not indicate if the change to the business's filing year can occur only once, which may create potential confusion for the business resulting in unnecessary or missed filings. In FY 2019, we received 179,000 annual report filings. Initially, any notification to change the reporting period would need to be filed on paper. Processing these notices will add a potentially significant burden to our office.

The bill requires certain reports to be filed on the same date prescribed by law for filing the business entity's annual Kansas income tax return. Currently businesses can file an annual report any time after the close of their tax period. However, businesses may interpret the provision in SB251 to mean the report must be filed on a specific date. This would compress the time to process the filing, verify the filing is complete, and help businesses resolve incorrect filings before the forfeiture date. This compressed reporting period increases the potential for businesses to forfeit.

Our office anticipates an increase in reinstatements under SB251 and additional costs to businesses if they do not fully understand their filing year. Approximately 3,500 businesses reinstate annually.

Reinstatement is currently a paper process due in part to the changes in filing fee requirements over the years. If a business needs to reinstate after two or three years rather than one, the reinstatement cost will increase.

Although the bill does not make changes to the filing fee amount, the timing shift in revenue to our office and the state general fund resulting from biennial or triennial filing, and the ability of businesses to change filing dates, would be difficult to anticipate and budget for accordingly. It also would present a challenge to allocate staff and resources efficiently and consistently from year to year.

While we are actively working to streamline and reduce filing burdens on business, including the annual report process, the bill presents several significant challenges to implementing and administering the provisions of SB251.

The Secretary of State's Office appreciates the Committee's consideration of this testimony.

Respectfully submitted,

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