



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee
FROM: K. Virginia Aldrich
DATE: February 29, 2016
RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER: 44-2-215

AGENCY/BOARD: Secretary of State

RULE CLASSIFICATION: (e.g. substantive/interpretive/emergency/temporary): Substantive

SUBJECT: Business Services Division Filings and Fees

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice): Notice of Public Hearing on Proposed Amendment

SUMMARY OF RULE(S):

The Secretary of State proposes to amend 10 rules concerning Business Services Division filings and fees. The Secretary of State proposes to amend one rule which expands the kinds of electronic records accepted by the Secretary of State as part of the implementation of an online electronic filing system (SIMS). The amendments will allow all business filings to be accepted electronically, and the amendments allow documents not filed electronically to be filed on paper or by facsimile.

The Secretary of State also proposes to amend one rule to allow a business filing to be resubmitted for 100 days after it is rejected, subjecting it to removal from the system if it is not resubmitted within that time. The Secretary of State notes a deadline is required by the vendor building the SIMS system to remove filing actions, and the Secretary of State determined 100 days was a sufficient amount of time to complete a business filing that did not meet the required filing criteria.

The Secretary of State proposes to amend eight rules concerning different types of filing fees (concerning corporations, limited liability companies, limited liability partnerships, limited partnerships, cooperative and agricultural associations and rural cooperative utilities, assumed business names, trademarks, and miscellaneous fees) to reflect the difference between electronically filed and paper-filed documents. Specifically, the Secretary of State proposes to amend existing rules to state that 50% reprocessing fees so that only paper-filed documents are subject to the reprocessing fee, whereas electronically filed documents are not assessed a reprocessing fee. In addition, the Secretary of State proposes to add an additional \$50 fee for a Business Alert (watch list) per year that alerts a user when a document or notice is recorded against a business that the user is tracking.

Agencies are required to include estimates of the cumulative amount of persons affected by a fee change and the number of persons affected, if known. The Secretary of State notes that the estimate for reprocessing electronically filed documents is unknown but that the total of reprocessing fees collected in fiscal year 2015 was \$51,278 and the total number of businesses was 8,109. The Secretary of State notes that it "assumes that the dollar amount will decrease significantly when businesses are offered the opportunity to file their documents online, but until that option is available, there is no way to predict the dollar amount or number of businesses affected." The Secretary of State also notes that it is unable to include an estimate for the Business Alert (watch list) because it is an optional service and there is "no way to predict the dollar amount that will be generated or the number of businesses or individuals that will take advantage of this service."

NOTES: A public hearing is scheduled for March 15, 2016, at 9:30 a.m. in Room 260, State Capitol Building, Helena, Montana. The public comment period ends on March 18, 2016.

FULL TEXT OF NOTICE: The full text of the notice proposal may be found online at <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=7021>.

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