

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 308 (Third Edition)

SHORT TITLE: Low-Profit Limited Liability Company.

SPONSOR(S): Senator Jacumin

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES	See Assumptions and Methodology				
EXPENDITURES	\$30,050	\$0	\$0	\$0	\$0
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of the Secretary of State					
EFFECTIVE DATE: When the bill becomes law.					

BILL SUMMARY: The third edition of Senate Bill 308 would recognize a new type of corporate designation known as a low-profit limited liability company (L3C).

ASSUMPTIONS AND METHODOLOGY:

Senate Bill 308 provides that a low-profit limited liability (L3C) company is a limited liability company (LLC) under North Carolina law. Low-profit limited liability companies (L3Cs) have been proposed as a means for encouraging investment in struggling business enterprises. Under this theory, non-profit organizations that are required to spend a certain percentage of their assets each year to maintain their non-profit status would invest in L3Cs that have some social purpose. If structured correctly, it is possible that the IRS could treat this investment as a program-related investment (PRI) that would count towards the percentage that must be spent in order to maintain non-profit status. However, neither the IRS nor Congress has chosen to treat an investment in a L3C as a PRI. Because non-profits do not face the same pressures as for-profit investors, the theory states that non-profits would be willing to accept a lower rate of return than would be required for a for-profit investor. Struggling businesses might then be able to stay in business, providing jobs to employees and other community benefits, because the pressure to produce market-rate profit levels

had been removed. One of the benefits of L3Cs is that no special legal structure, other than the LLC structure, is needed to establish an L3C.

Low Profit Limit Liability Companies will be a new category of business entity in North Carolina. The agency estimates that it will incur \$30,000 in one-time start-up costs for programming. This programming will require a month of work and include the following technical changes that are necessary to include this category in the agency's system: 1) amend the LLC profile to include the low profit corporate ending (L3C) that will be able to be queried; 2) write a document to include certification statement that the entity's purpose satisfies the requirements of 57C-1-03(12a); 3) create a document to be available within agency's Knowledge Base, with all examination/rejection parameters; 4) create a document for placement on the schedule of fees/documents for LLC's online; and 5) provide documents that will be searchable and viewable online under the profile. Additionally, two weeks are required for text development of document at a cost of \$50. The agency estimates total one time costs of \$30,050 and no additional personnel or recurring funding is required.

As with the Limited Liability Companies (LLC), revenue is anticipated from fees charged to the L3Cs in the amount of \$125 per entity upon organization, and \$200 per entity for the annual reporting fee. However, these fees will be deposited into the General Fund and not into the agency's budget as a receipt. Therefore, an appropriation would be required to provide the \$30,050 in one time costs. However, as this is a new category of business entity, neither the Department of the Secretary of State nor the Fiscal Research Division (FRD) has been able to determine the number of business entities that may be established.

Since L3C legislation has become law in the Crow Indian Nation and at least five states – Maine, Michigan, Utah, Vermont, and Wyoming, and possibly in Illinois, FRD staff contacted the states to obtain information about fiscal analysis. In Michigan, Senate staff reviewed background information from the Department of Energy, Labor, and Economic Growth, but did not expect any fiscal impact. This was based upon an assumption that providing an alternative organizational structure for a corporation would not generate additional transactions or work for the department. Additionally, the regulatory agencies in Utah did not anticipate any additional administrative costs for the new classification. In Vermont, neither Legislative nor Secretary of State's staff prepared an analysis. Although Vermont was the first state to pass legislation in April 2008, no data has been collected in regards to the impact of the new designation since passage of the bill. Illinois has not prepared an analysis of its bill. At this time no information about fiscal impact is available from the Crow Indian Nation, Maine, or Wyoming.

SOURCES OF DATA: Secretary of State's Office

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Michele Nelson

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: July 7, 2009



Signed Copy Located in the NCGA Principal Clerk's Offices