

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 409 (The Speaker, *et al.*) (By Request - Administration)
 Economic Matters

Corporations and Associations - Annual Reports - Fees for Electronic Filings

This Administration bill exempts business entities from paying the filing fee required with the submission of an annual report to the State Department of Assessments and Taxation (SDAT) if the annual report is filed electronically. The exemption applies to annual reports due on or after April 15, 2023. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund revenues decrease by \$41.4 million in FY 2023 and by \$57.1 million in FY 2027. The Governor’s proposed FY 2023 State budget recognizes a \$36.0 million revenue loss resulting from this legislation. Expenditures are not affected.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	(\$41.4)	(\$46.2)	(\$50.9)	(\$55.8)	(\$57.1)
Expenditure	0	0	0	0	0
Net Effect	(\$41.4)	(\$46.2)	(\$50.9)	(\$55.8)	(\$57.1)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: Business entities in the State are required to file an annual report along with a reporting fee with SDAT by April 15, regardless of whether the business owns property, generates income, or has conducted business activity in the State during the preceding year. Failure to file the annual report may result in the business entity losing the right to conduct business in Maryland. **Exhibit 1** identifies the amount of the report fee that each legal entity is required to pay.

Exhibit 1 Annual Reporting Fee Requirement

<u>Business Entity</u>	<u>Fee</u>	<u>Business Entity</u>	<u>Fee</u>
Stock Corp	\$300	Domestic Statutory Trust	\$300
Nonstock Corp	0	Foreign Statutory Trust	300
Foreign Insurance Corp	300	Real Estate Investment Trust	300
Foreign Interstate Corp	0	Certified Family Farm	100
Limited Liability Company	300	Sole Proprietorship	0
Limited Liability Partnership	300	General Partnership	0
Limited Partnership	300	Amended Return	0

Background: Chapter 406 of 2021 required SDAT to (1) review the filing fees and associated requirements of neighboring states that are equivalent or substantially similar to filing fees in Maryland and (2) report recommendations to the General Assembly that would make Maryland more competitive with neighboring states, including whether to establish less frequent filing requirements, decrease fees, or establish a sliding fee scale. The report was submitted on December 31, 2021.

The study reported the following information about filing fees in neighboring states:

Delaware – \$300 annual report fee for all domestic and foreign limited liability companies (LLCs) and \$125 annual report fee for all foreign stock and nonstock corporations. In addition, \$50 annual report fee for all domestic corporations and \$25 annual report fee for all domestic nonstock corporations. All domestic corporations are also charged a franchise tax that can range between a minimum of \$175 and a maximum of \$200,000 based on a statutory formula.

District of Columbia – \$300 biennial report fee for all domestic and foreign stock corporations and LLCs and \$80 fee for nonstock corporations. Fees and reports are collected every other year.

Pennsylvania – Reporting requirement for all registered entities is decennial; reports must be filed anytime during calendar years ending in 1. Every decennial report must be accompanied by a \$70 fee.

Virginia – \$50 annual report fee for all domestic and foreign LLCs and \$25 annual report fee for all domestic and foreign nonstock corporations. The annual report fee for domestic and foreign stock corporations starts at \$100 and increases \$30 for every 5,000 shares the corporation has issued above the first 5,000 shares. The annual report fee for stock corporations is capped at \$1,700 for corporations that have issued more than 270,000 shares of stock.

West Virginia – \$25 annual report fee for all corporations and LLCs and \$25 or \$50 late fee if the annual report is filed after July 1.

Findings from SDAT Study

SDAT indicates that during the previous five years, the department has made significant progress in modernizing and upgrading the Maryland Business Express online filing platform. This has resulted in more customers filing their annual reports electronically. However, even though the department has expanded online services, a large number of annual reports continue to be sent through the mail or by personal delivery. These annual reports are accompanied by checks or money orders.

Annual reports submitted in hard copy format present multiple challenges because of the many opportunities for disruption to the filing process. According to SDAT, delays in mail delivery, which have been a factor during the COVID-19 pandemic; missing or improperly filled out checks for fees; damaged, unreadable, or missing pages; and improperly completed forms all result in delays and frustrated filers. As such, hard copy paper filings cost more to process and record both in terms of budgetary expense and staff time.

State Revenues: General fund revenues decrease by \$41.4 million in fiscal 2023 and by \$57.1 million in fiscal 2027, as shown in **Exhibit 2**. This estimate is based on the current general fund revenue forecast and assumes that 60% of business entities will file annual reports electronically in fiscal 2023. The percent of business entities filing electronically will increase to 75% by fiscal 2026. The Governor’s proposed fiscal 2023 State budget recognizes a \$36.0 million revenue loss resulting from this legislation.

Exhibit 2
Annual Report Filing Fee Revenue Decrease
(\$ in Millions)

<u>Fiscal Year</u>	<u>General Fund Forecast</u>	<u>Estimated Online Filers</u>	<u>General Fund Revenue Decrease</u>
2023	\$69.0	60%	(\$41.4)
2024	71.1	65%	(46.2)
2025	72.7	70%	(50.9)
2026	74.4	75%	(55.8)
2027	76.1	75%	(57.1)

Source: Board of Revenue Estimates; State Department of Assessments and Taxation; Department of Legislative Services

This estimate also accounts for Chapters 323 and 324 of 2016 that established the Maryland Small Business Retirement Savings Program and Trust that requires specified private-sector employers to make the program available to their employees. The legislation waives the annual filing fee collected by SDAT for a corporation or business entity that participates in the program or otherwise offers a retirement savings arrangement for its employees. The Budget Reconciliation and Financing Act of 2019 delayed the implementation of the program until fiscal 2022; however, the Board of Revenue Estimates December 2021 forecast assumes that implementation of the program will begin July 1, 2022. As such, the current revenue forecast assumes that filing fee revenues will be reduced by approximately 35% beginning in fiscal 2023 as a result of businesses enrolling in the program. To the extent that variations occur in the number of business entities paying the filing fee each year, the effect on general fund revenues will vary accordingly.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 403 (The President, *et al.*) (By Request - Administration) - Budget and Taxation.

Information Source(s): State Department of Assessments and Taxation; Board of Revenue Estimates; Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2022
rh/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Corporations and Associations – Annual Reports – Fees for Electronic Filings**

BILL NUMBER: HB 409

PREPARED BY: Kaitlin Marsden Sweetin

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

All business entities formed, qualified, or registered to do business in Maryland are required to file an Annual Report with the State Department of Assessments and Taxation (SDAT) every year. This bill eliminates all annual filing fees that all business entities are required to pay to maintain their "good standing" status with the state. The current Annual Report filing fee for domestic (Maryland chartered) and foreign (chartered in a different state and registered with SDAT to transact business in Maryland) stock corporations, limited liability companies (LLCs), and different types of partnerships is \$300. A Maryland family farm pays \$100.