

LFC Requester:

Hilla, Emily

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/23/2025

Check all that apply:

Bill Number: SB 388Original  Correction Amendment  Substitute 

Agency Name

and Code

Secretary of State - 370

Number:

Sponsor: Peter Wirth

Short ARTICLES OF

INCORPORATION

Title: CHANGES

Person Writing

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lindsey.bachman@sos.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

SB 388 amends Chapter 53 NMSA 1978 which addresses corporations.

Section 1 clarifies that articles of incorporation for cooperative associations should be filed with the Secretary of State's Office (SOS) instead of the public regulation commission. It further defines an "invalid filing" as one that contains a name of person who doesn't exist or the address of a person who is not affiliated with the association. It requires the SOS to revoke invalid filings and creates a misdemeanor.

Section 2 amends a section of the Nonprofit Corporation Act. It clarifies that articles of incorporation for nonprofit corporations should be filed with the SOS instead of the public regulation commission. It further defines an "invalid filing" as one that contains a name of person who doesn't exist or the address of a person who is not affiliated with the corporation. It requires the SOS to revoke invalid filings and creates a misdemeanor.

Section 3 amends provisions for unincorporated associations. It clarifies that articles of incorporation for unincorporated associations should be filed with the SOS instead of the public regulation commission. It further defines an "invalid filing" as one that contains a name of person who doesn't exist or the address of a person who is not affiliated with the club or association. It requires the SOS to revoke invalid filings and creates a misdemeanor.

Sections 4 through 8 amend sections of the Business Corporation Act. They clarify that articles of incorporation, amendments and changes related to registered agents for business corporations should be filed with the SOS instead of the public regulation commission. They further define an "invalid filing" as one that contains a name of person who doesn't exist or the address of a person who is not affiliated with the corporation. They require the SOS to revoke invalid filings and create a misdemeanor.

#### **FISCAL IMPLICATIONS**

The SOS does not anticipate needing large systemic enhancements to its online business filing system in order to account for the changes proposed in SB 388. Costs are expected to be minimal, if any are incurred at all.

The SOS will have additional administration duties associated with education, compliance, and enforcement. The full funding of SOS's budget request is necessary to keep up with the volume of work associated with all of the statutory duties supported by the office.

#### **SIGNIFICANT ISSUES**

SB 388 does not make similar changes to Limited Liability Corporations. The SOS has received complaints regarding LLCs and associated addresses specifically. If the legislature supports the changes as outlined in SB 388, it is recommended that similar changes be made to provisions governing LLC filings in Article 19 of Chapter 53 NMSA 1978.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

SB 388 does not allow for the potential of filers to make mistakes or errors on filings. A filer could, for example, transpose a number on an address and would potentially face misdemeanor penalties. Amending the penalty provisions in the bill to “A person who *knowingly* files an application for a certificate of authority...” should help address this.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**