

Date of Hearing: April 20, 2015

ASSEMBLY COMMITTEE ON BANKING AND FINANCE  
Matthew Dababneh, Chair  
AB 871 (Brown) – As Introduced February 26, 2015

**SUBJECT:** Business filings: statement of information

**SUMMARY:** Changes the filing period when a corporation, a nonprofit public benefit corporation, a nonprofit mutual benefit corporation, a consumer cooperative corporation, a limited liability company (LLC) and a foreign LLC files a statement of information (SOI) with the Secretary of State (SOS). Specifically, **this bill:**

- 1) Requires all corporations to file the SOI by March 15<sup>th</sup> of each year with the SOS rather than during the calendar month of which the original articles of incorporation (AOI) was filed.
- 2) Requires all LLCs to file the SOI by April 15<sup>th</sup> biennially with the SOS rather than during the calendar month of which the original AOI was filed.
- 3) Requires all nonprofit corporations to file the SOI by May 15<sup>th</sup> biennially with the SOS rather than during the calendar month of which the original AOI was filed.
- 4) Requires the SOS to provide notice to the above listed entities 3 months prior to the applicable filing date.

**EXISTING LAW:**

- 1) Requires every corporation to file, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period, on a form prescribed by the SOS, a statement. Specifies the filing period for a corporation shall be the calendar month which its original articles were filed and the immediately preceding five calendar months. The SOS provides a notice to each corporation to comply with this section approximately three months prior to the close of the applicable filing period. [Corporations Code, Section 1502]
- 2) Requires every nonprofit public benefit corporation, nonprofit mutual benefit corporation, limited liability company and foreign limited liability company to within 90 days after the filing of its original articles and biennially thereafter during the applicable filing period to file with the SOS. [Corporations Code, Sections 6210, 8210, and 17702.09]
- 3) Requires every consumer cooperative corporation to file within 90 days after its original articles and annually thereafter during the applicable filing period each year a form prescribed by the SOS. [Corporations Code, Section 12570]

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the Bill:*

According to the author, "streamlining the SOI filing dates and allowing businesses to file at the same time every year would eliminate confusion as to when a business entity's SOI is due. This change would also have a positive impact on small businesses and improve compliance with the SOI filing mandate. In addition, the natural staggering of due dates if filed with the Franchise Tax Board (FTB) filing over a 3 month period would help prevent the SOS from becoming overwhelmed with a large volume of SOIs coming in at one time of year."

***Background:***

Under existing law, the SOS provides filing periods, for example, corporations are required to file annually during the filing period of the calendar month during which its original AOI was filed and provides a flexibility period of 5 months from that date to file. The SOS is required to notify corporations of the filing period 3 months prior to the close of the applicable filing period.

AB 871 changes the filing periods to filing dates. Corporations and consumer cooperative corporations who file on an annual basis would be required to file a SOI on March 15<sup>th</sup> of each year with the SOS. Nonprofits who file on a biennial basis would be required to file a SOI on May 15<sup>th</sup> every other year. LLCs who also file biennially would be required to file a SOI on April 15<sup>th</sup> every other year. The SOS would be required to provide notice of this filing date 3 months prior to the date.

As of April, 2015, according to the SOS, California has almost a million active corporations and close to 600,000 active LLCs.

***California Business Connect (CBC)***

CBC is a six-year project that aims to increase efficiency by eliminating paper-based manual transactions and associated risk of loss to vital state records. CBC will also minimize processing delays through the creation of a uniform data entry platform. Businesses that use CBC will be able to do many of their transactions online, without delay and without paying an additional fee.

By June 30, 2016, the SOS must launch CBC. CBC will:

- Automate paper-based processes and allow businesses to file and request copies of records online 24 hours a day.
- Provide access to SOS records for the public and government agencies to perform functions in a more efficient manner.
- Allow fee payments to be processed within one business day.

***Previous Legislation***

AB 2180 (Brown) would have changed the filing period when a corporation, a nonprofit public benefit corporation, a nonprofit mutual benefit corporation, a consumer cooperative corporation a limited liability company, foreign limited liability company, and a credit union files a SOI with the SOS. Died in the Assembly Appropriations Committee.

SB 1041 (Jackson, Chapter 834, Statutes of 2014) makes various technical, non-substantive, and clarifying changes throughout the Corporations Code in preparation for the SOS automated filing

system. These changes include, among other things: requiring that the SOS prescribe forms for the resignation of agents for service of process; harmonizing statutes relating to the resignation of agents for service of process to provide consistency across different types of business entities; authorizing the SOS to remove and destroy records relating to agent resignations if a new agent for service of process is designated, as specified; clarifying the necessary signatures for various business filings; clarifying when foreign limited liability company registration cancellations are effective; clarifying situations wherein a penalty for otherwise delinquent annual statements would not be applied; striking requirements for the provision of additional copies of specified filings; and correcting various internal cross references.

SB 1532 (Pavley, Chapter 494, Statutes of 2012) was enacted to implement changes necessary for the California Business Connect automated system. Specifically, the bill specified that the required address information in business filings is the street address and required business entities to provide a mailing address if not the same as the street address. SB 1532 also revised requirements with respect to the maintenance of forms filed with the SOS, revised provisions relating to the assignment of filing dates and fees by the SOS, repealed specified provisions relating to special purpose corporations, and made other technical changes.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Society of Enrolled Agents (CSEA) (Sponsor)  
California Chamber of Commerce

##### **Opposition**

None on file.

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