

Department of Finance and Administration

Legislative Impact Statement

Bill: SB142

Bill Subtitle: TO ALLOW A FOR-PROFIT CORPORATION TO CONVERT TO A NONPROFIT CORPORATION; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsor: Sen. Teague

SB142 amends §§ 4-27-202, 4-28-206, and 4-33-202 to allow a for-profit corporation to convert to a nonprofit corporation.

Revenue Impact :

Estimate Revenue Neutral.

Taxpayer Impact :

Taxpayers that currently operate as a for-profit corporation will be able to convert to a nonprofit corporation. To do so, a corporation must file an amendment to its articles of incorporation with the Arkansas Secretary of State. The conversion must be approved by a three-fourths vote of the shareholders. The corporation would need to file a final income tax return from the beginning of the tax period until the date of conversion and pay any tax due if applicable. The Taxpayer would need to apply with DFA Corporation Income Tax Section for Arkansas income tax exempt status on Form AR1023.

Resources Required :

Update tax forms and instructions, procedure and training manuals.

Time Required :

Adequate time is provided.

Procedural Changes :

Department auditors and examiners would need to be trained on how to review/process corporations who have converted to a nonprofit corporation.

Other Comments :

None.

Legal Analysis :

SB142 seeks to amend the existing incorporation and nonprofit organization statutes to allow a for-profit corporation to convert to a nonprofit corporation and outlines the procedure which would be required for conversion. The bill does not require the for-profit corporation to give notice of the conversion to the Department of Finance and Administration (DFA). Timely notice of the conversion to DFA could prevent issues with licenses, permits, tax audits, and the processing of tax returns.

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The comma on Line 27, Page 1, should likely be replaced with a period, which would separate the two complete sentences contained in Lines 23-27 and Lines 27-31. On Lines 20-29, Page 2, clarification is likely needed that the added requirements of proposed § 4-28-206(a)(8) and (9) only apply to for-profit corporations converting to a nonprofit corporation, rather than all nonprofit corporations, similar to the proposed changes to § 4-33-202 on Line 8, Page 4. Section 2 should likely also include the requirement of a statement that the Internal Revenue Service has been notified or will be notified within a reasonable time of the conversion and federal regulations were followed regarding the conversion.

The bill contains an emergency clause and would be effective on: (1) the date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.