

STORAGE NAME: h1075.brc

DATE: March 10, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION AND CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 1075

RELATING TO: Filings with the Department of State

SPONSOR(S): Representative Flanagan

COMPANION BILL(S): SB 1830(I), SB 294(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS REGULATION AND CONSUMER AFFAIRS
 - (2) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
 - (3) FINANCE & TAXATION
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill would authorize the Department of State to create a uniform business report. It would be used as a substitute for annual reports and renewals required by certain statutes and could be compiled into the master business index and directory of business activity. This would facilitate the efficient exchange of information. Corporations would be permitted to file required reports and renewals electronically (i.e. via the Internet).

The Department of State would be given the authority to prescribe the use of the uniform business report, and to consolidate and establish filing and renewal dates. The provisions would remove statutory barriers to the use of technology (i.e. the Internet) and streamline current practices of the Department of State.

Certain copying fee provisions that are confusing to the public would be repealed, as well as certain search fees for which there is no longer service provided. Provisions requiring the reporting of intangible tax liability on annual reports would be repealed. Finally, the notice of voluntary contributions to the Election Campaign Financing Trust Fund on annual report forms supplied by the department would be repealed.

The bill would have an indeterminate fiscal impact reducing both public and private costs. However, a fiscal impact statement from the Department of State was not available at the completion of this analysis.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

A study was conducted by the Department of State pursuant to chapter law 97-15 that considered ways to use the master business index to facilitate the efficient exchange of business information, to aide in the economic development of the state, to streamline the workings of state government, and to lessen the impact of redundant tasks put upon business because of state regulation. The study considered ways to use a uniform business report and current technology to minimize the work necessary to comply with state regulation.

B. EFFECT OF PROPOSED CHANGES:

The bill implements the recommendations of the study. Participating agencies would have to use, contribute and share current information through the master business index. The Department of State would be required to create a directory of business activity in the state based on the master business index to facilitate economic development. The department would be authorized to prescribe the use of a uniform business report which could be filed electronically. Certain outdated, cumbersome and unenforceable provisions would be repealed.

See the Section-by-Section Analysis portion of this document for details.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the Department of State would have the authority to prescribe the use of the uniform business report and alter its practices to facilitate the recording of electronic filings.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

As the department develops and prescribes the use of the uniform business report, other agencies would have less authority to prescribe the means and form of reporting.

(2) what is the cost of such responsibility at the new level/agency?

Indeterminate.

(3) how is the new agency accountable to the people governed?

Through the legislature.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No

- b. Does the bill require or authorize an increase in any fees?

No

- c. Does the bill reduce total taxes, both rates and revenues?

No

- d. Does the bill reduce total fees, both rates and revenues?

Yes, the bill would repeal certain fee provisions of chapter 15, F.S.

- e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, use of the uniform business form will reduce the total amount of time spent interacting with government by allowing more efficient filing.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amending chapters 15, 339, 495, 606, 607, 608, 617, 620, and 865, F.S. Creating substantive cross references to chapters 55, 495, 606, 607, 608, 609, 617, 620, 621, and 865, F.S. Correcting cross reference to chapter 607.01401(18), F.S. Repealing s. 15.09 (1) (d), F.S., (1998 Supp.), s. 15.091 (2), F.S., and s. 607.1622 (1) (g) and (h), F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 606.03, F.S., to provide definitions of terms used in new statutory language.

Section 2. Amends s. 606.04, F.S., to require the master business index become the state's central index of businesses and authorize development of a directory of business activity.

Present Situation

Section 606.04, F.S., created by chapter law 97-15, directed the Department of State to create a master business index. The master business index was to draw information from databases already in existence at the department. Further, the department was to assign each business in the master business index a unique number for interagency use. The department was empowered to consolidate other information into the master business index. Finally, the department was permitted to consolidate mailings and filing deadlines.

Effect of Proposed Changes

This section would require that the master business index become the state's central index of businesses. Further, the index must include all licenses and registrations held by a business with any participating agency. "Any participating agency" is any agency choosing to use the master business

index to exchange information. Each participating agency will have to provide current information on businesses they regulate. They will have discretion to use the master business index as an information resource and use that information in fulfillment of the agency's statutory duties.

The Department of State would be authorized to digest the master business index into a directory of business activity to serve as an aide to Florida's economic development. Finally, the Department of State would be authorized to make agreements with any other government agency to aide in business registration with such an agency.

Sections 3-9. Create s. 606.06, s. 607.1622(9), s. 608.4511(8), s. 617.1622(9), F.S., and amend 495.071, s. 607.0121, s. 608.4511(1)(d), F.S., to authorize use of the uniform business report as a substitute for required reports.

Present Situation

State agencies now use any number of forms and methods to gather and share information regarding licensees, registrants and others. These differing practices create barriers to the exchange of information within government and with the private sector.

Effect of Proposed Changes

These sections would permit the use of the uniform business report as a substitute for required annual reports and renewal filings. This would facilitate the efficient exchange of information pursuant to registrant requests and agreements with any other governmental agency. Information from the uniform business report could be used as a substitute for annual reports and renewals required by certain statutes and could be compiled into the master business index and directory of business activity.

Section 10. Amends s. 620.177, F.S., to conform the statute to other changes made by the bill, add information required in certain filings, restrict access to the courts in certain circumstances and authorize the use of the uniform business report.

Present Situation

Section 620.177, F.S., requires domestic and foreign limited partnerships to meet certain requirements relating to renewal of certificates. The statute requires annual reports on or before December 31 of each year and sets forth information which must be included in the report.

Effect of Proposed Changes

This section conforms the statute in relation to other changes made by the bill to allow the department to consolidate renewal dates. Further, this section would include the Federal Employer Identification Number as a required component of the annual report. It adds provisions establishing when the first annual report of a domestic or foreign partnership must be filed, requiring that the information therein must be current on the date of execution, and provides for the incorporation of additional information. Any partnership that fails to file a timely report is deprived of access to Florida's courts, both in maintaining and defending actions. The uniform business report may be substituted as a form required by the statute.

Section 11. Amends s. 865.09(6) and (11), F.S., to make technical changes to renewal dates and the process of notification for need of renewal. The uniform business report may be required by the department to satisfy provisions of this statute.

Section 12. Amends s.15.16, F.S., to allow electronic filing.

Present Situation

The advent of electronic methods of delivery are hampered by the provisions of the statute. This presents an unnecessary barrier to the exchange of information.

Effect of Proposed Changes

This section adds chapters 55, Judgements, and 606, Business Coordination, to the list of chapters for which required information may be filed electronically. New language is added to provide guidelines for the acceptance, delivery, use, form, and fees associated with electronically filed information. The department would be able to use government or private contractors in relation to electronic filing.

Section 13. Amends s. 607.0120, F.S., and creates s. 607.0120 (10), F.S., to provide for the form and delivery of electronic filings to the department and requiring provision for the payment of fees when filing electronically or otherwise.

Section 14. Amends (1) and (2) of s. 607.0123, F.S., to make technical changes to the effective date and time of a filing. The filing will be effective on the date filed as evidenced by such means as the department may use. The word date would replace the word time where it occurs in this statute. Effectiveness would now occur at the start of the business day.

Section 15. Amends s. 607.0124, F.S., to provide alternative language concerning correcting filed documents. Variations of the terms "inaccurate" and "defective" would be substituted for current analogous language. Provision would be made for correction of a defective electronic transmission.

Section 16. Amends s. 607.0125 (2), F.S., to allow the department the discretion over the required method by which the department records filings.

Section 17. Amends s. 607.0127, F.S., to simplify the process of certifying copies of filed documents.

Section 18. Amending, creating and renumbering subsections of s. 607.01401, F.S., to provide definitions regarding the delivery, transmission and signing of documents to aide in the use of electronic filing.

Section 19. Amends s. 607.0141, F.S., to allow and provide for the use of electronic means to provide notice as required under the statute.

Section 20. Amends s. 339.12 (4) (a), F.S., to correct a cross-reference error created by the renumbering associated with section 18 of this bill.

Section 21. Repeals s. 15.09 (1) (d), F.S., (1998 Supp.), s. 15.091 (2), F.S., and s. 607.1622 (1) (g) and (h), F.S., to remove outdated, cumbersome and unenforceable provisions.

Present Situation

Under s. 15.09 (1) (d), F.S., (1998 Supp.), the department now collects a fees for verifying and certifying copies of corporate charters. The use of this fee has become confusing to the public and cumbersome to the department. Section 15.091 (2), F.S., establishes a fee for the searching of papers or records. The department no longer supplies staff for this function and the service is no longer available as a result. Section 607.1622 (g), F.S., requires the disclosure of intangible tax liability on the annual report of any corporation filing such a report. This statute also requires the department to compile a list of liabilities for the purposes of the Department of Revenue. This statutory provision has become cumbersome to the department and is difficult to enforce. Section 607.1622 (h), F.S., requires annual report forms supplied by the department to include language concerning the voluntary contribution of \$5.00 per taxpayer to the Election Campaign Financing Trust Fund. The Department of State indicates that this is an unnecessary burden on the department and filers since the mentioned trust fund does not exist.

Effect of Proposed Changes

The mentioned sections would be repealed and their provisions would be void.

Section 22. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The bill would reduce the collection of certain fees pursuant to chapter 15, F.S.

2. Recurring Effects:

Please see fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Please see fiscal comments.

4. Total Revenues and Expenditures:

Please see fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

Business would benefit from streamlined government and reduced filing requirements.

3. Effects on Competition, Private Enterprise and Employment Markets:

Business operators would have more time devote to their businesses

D. FISCAL COMMENTS:

The bill would have an indeterminate fiscal impact reducing both public and private costs, however, an impact statement from the Department of State was not available at the conclusion of this analysis.

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A spelling error exists on page 13, line 7: "te" should be replaced by "be"

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

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