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DATE: March 24, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: HB 575

RELATING TO: Corporate Filing Fees

SPONSOR(S): Representative(s) Baker

TIED BILL(S):

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

- (1) BANKING YEAS 8 NAYS 0
 - (2) FISCAL POLICY AND RESOURCES
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
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I. SUMMARY:

The Uniform Business Report is a mandatory annual filing that is required of every corporation, limited partnership, limited liability partnership, and limited liability company to maintain their legal authority to transact business in Florida. These reports can either be sent manually or electronically to the Department of State's Division of Corporations.

Corporations filing manually are assessed \$150 per report. They submit the report to a private vendor and the vendor in turn processes the report and charges the Division of Corporations \$4.35 on average per report.

Corporations filing electronically are assessed \$150 plus a "convenience fee" per report. The convenience fee is a flat rate based on the type of entity submitting the filing. Profit corporations are assessed \$5.00, nonprofit & limited liability companies are assessed \$3.00, and limited partnerships are assessed \$10.00. The weighted average of all convenience fees is \$5.00. The vendors charge the Division a convenience fee for use of the electronic service and processing reports. The Division passes the fee through to the filers.

A processing fee is being paid under either scenario. In the case of manual filers, the department is paying for the service. In the case of electronic filers, the corporations are paying for the service.

This bill authorizes the Department of State to discount the annual filing fee by an amount equal to the convenience fee.

It is estimated that the fiscal impact will be insignificant. The Revenue Impact Conference will meet to adopt an estimate Friday, March 30, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Corporations are required to file an annual report with the Department of State's Division of Corporations (s. 607.1622, F.S.), accompanied by an annual fee of \$61.25 (s. 607.0122(17), F.S.) and a supplemental fee of \$88.75 (s. 607.0122(23), F.S.). The Division has contracted with a private vendor to process annual reports that are filed manually. The vendor currently charges between \$3 and \$6 (\$4.35 on average) per report for this service. The Division reports that charges are contracted to go up five percent a year. The number of reports filed with the Division is approximately 650,000. Roughly 3,300 reports are filed electronically. Fees associated with filing are deposited into the Corporations Trust Fund pursuant to s. 607.1901, F.S.

Section 15.16, F.S., authorizes the Department of State to accept electronic filings for various reports and to use private third party contractors (i.e., credit card companies and a third party administrator) to service payments and process electronic reports. The \$5 convenience fee covers the cost of both the credit card company and the third party administrator. The servicing company does not collect the convenience fee from the consumer, but from the Division. Consequently, the Division has been charging electronic filers \$155 (\$61.25 annual fee, plus \$88.75 supplemental fee, plus the \$5 convenience fee) to cover the additional cost.

In addition to requiring corporations to pay an annual supplemental fee, s. 607.193, F.S., provides that if a corporation remits this fee after May 1, it must pay a late charge of \$400. If filing electronically, an additional \$10 is added to the convenience fee. Section 607.193(3), F.S., requires the department to prescribe by rule, forms for filing these supplemental fees. The Division reports that in the event a corporation has not received the prescribed forms, the Division has waived the late charge, however, this impacts only about 1/10 of one percent of filings annually. The Division of Corporations checks the validity of a corporation's claim that it did not receive the prescribed form by maintaining a file of undelivered/returned forms.

C. EFFECT OF PROPOSED CHANGES:

See SECTION-BY-SECTION ANALYSIS

D. SECTION-BY-SECTION ANALYSIS:

Section 1 of this bill amends s. 15.16, F.S., by authorizing the Department of State to discount the annual corporate report filing fee by an amount equal to the convenience charge for electronic filing.

Section 2 amends s. 607.193, F.S., by codifying the practice of waiving supplemental corporate fee late charges for corporate filers who have not received the department's prescribed filing forms.

Section 3 makes the provisions of this Act effective upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

An official revenue estimate will be adopted March 30, 2001. It is estimated that the fiscal impact will be insignificant.

2. Expenditures:

It is estimated that no additional expenses will be borne to the state. As the use of electronic filing increases, the Division may save on costs associated with front-end mailings (i.e., the cost associated with mailing forms to corporations that file manually). The Division expects that as the volume of electronic filers increases the convenience fee will be reduced.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Corporations that file annual statements will be assessed the same fee for filing electronically or manually.

D. FISCAL COMMENTS:

None

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 to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority the counties or municipalities 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. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Division of Corporations notes that by encouraging companies to file electronically, the potential for false or incorrect information from human error will be reduced. Other benefits include, faster filing, less audit time, and reduction in front-end mailing costs.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BANKING:

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