

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 740

INTRODUCER: Senator Baxley

SUBJECT: Fees/Annual Business Organization Reports

DATE: March 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 740 provides for a biennial report fee and biennial supplemental fee associated with a Florida business entity's filing of its biennial report with the Department of State. The proposed biennial report and supplemental fees are exactly double the annual report and supplemental fees currently in statute. Additionally, the bill permits the Department of State to escrow revenues from biennial report filing fees in order to annualize its earnings from those payments.

This legislation would take effect only on the same date that SB 738 or similar legislation, if adopted during the 2019 Regular Session or an extension thereof.

II. Present Situation:

SB 738 (2019 Regular Session) proposes to allow business organizations that are registered in Florida to submit either an annual or a biennial report with the Florida Department of State (Department).¹ Currently, those entities must file an annual report and remit an annual report fee and supplemental fee each year.² The Department charges a late filing fee of \$400 to any business entity that fails to file its annual report on or before May 1 of each year.³

In the 2018 General Election, voters approved Amendment 5 to the Florida Constitution.⁴ The amendment added Section 19 to Article VII of the Florida Constitution, which requires a supermajority vote to impose, authorize, or raise state taxes or fees. No state tax or fee may be raised by the legislature except through legislation approved by two-thirds of the membership of

¹ If signed into law, this bill would take effect July 1, 2019.

² See, ss. 605.0213(5), 607.0122(17), 617.0122(17), 620.1109(7), and 620.81055(1)(h), F.S. See also, s. 607.193, F.S.

³ Section 607.193(2)(b), F.S.

⁴ Election results for the state constitutional amendments are available at <https://floridaelectionwatch.gov/Amendments> (last visited Mar. 1, 2019).

each house of the legislature.⁵ “Fee” means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service. “Raise” means to increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis; to increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or to decrease or eliminate a state tax or fee exemption or credit.⁶ A state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.⁷

III. Effect of Proposed Changes:

Sections 1-6 set the cost for biennial report fees and biennial supplemental fees as double the cost of current annual report fees and annual supplemental fees. The annual fees and proposed biennial fees vary by type of business organization, as shown in the table below:

Type of Business Entity	Annual Report Filing Fee	Supplemental Corporate Fee
Limited Liability Company	\$50	\$88.75
Corporation	\$61.25	\$88.75
Corporation Not For Profit	\$61.25	\$88.75
Limited Partnership	\$411.25	\$88.75
Limited Liability Partnership	\$25	n/a

The late filing fee remains the same (\$400).

Additionally, the bill permits the Department to escrow⁸ an amount necessary to annualize its revenue from biennial report fees and biennial supplemental fees until October 1 of the following fiscal year, and then account for that annualized amount as revenue for the next fiscal year.

Sections 3 and 7 make technical conforming changes.

Section 8 provides that the bill will take effect on the same date that SB 738 or similar legislation takes effect, if that legislation is adopted in the same legislative session or an extension thereof.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵ FLA. CONST. art. VII, s. 19(b).

⁶ FLA. CONST. art. VII, s. 19(d).

⁷ FLA. CONST. art. VII, s. 19(e).

⁸ “Escrow” is defined as property delivered by a promisor to a third party to be held by the third party for a given amount of time or until the occurrence of a condition, at which time the third party is to hand over the property to the promise. BLACK’S LAW DICTIONARY (10th ed. 2014).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, section 19 of the State Constitution requires a two-thirds vote of the House and Senate to impose a new tax or fee, or to raise a tax or fee.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

Business entities that opt to file their reports with the Department on a biennial basis may see a reduction in related late filing fees paid to the Department.

C. Government Sector Impact:

The Department may see a reduction in its collection of late filing fees related to annual report filings.

VI. Technical Deficiencies:

Line 268 of the bill should be amended to reflect that the bill takes effect on the same date that SB 738 or similar legislation takes effect.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 605.0213, 607.0122, 607.193, 617.0122, 620.1109, 620.81055, and 605.0118.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
