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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BANKING
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
 - (2) FISCAL POLICY & RESOURCES
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
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I. SUMMARY:

Currently the Division of Corporations of the Department of State collects annual corporate reports and the associated filing and supplemental fees through a private vendor service if done manually, or receives these items directly through electronic means. For manual filings, the corporations submit \$150 per report through the private vendor for which the vendor receives between \$3 and \$6 per report from the department. Corporations are assessed \$155 for electronic filings to pay the convenience fee charged by third party vendors (i.e. a credit card companies) to transmit fees electronically. A processing fee is being paid under either scenario, however, in the case of manual fees, the department is paying for the service and in the case of electronic filing, the corporation is paying the additional charge.

This bill authorizes the Department of State to discount the corporate annual report filing fee by an amount equal to the convenience charge for electronic filing of that report. This discount would put electronic filing fees on par with manual filing fees, both for the amounts charged to the corporation and the amounts ultimately realized by the department.

The supplemental corporate fees that are required to be paid with the annual report filings must be done via a prescribed form created by rule by the department. There is a \$400 late charge for this fee if the fee is remitted after May 1. The Division of Corporations reports that about 1/10 of 1 percent of those submitting such fees file after that deadline because they did not receive the prescribed form in time to remit the fee. Under these circumstances, the division has been in the practice of waiving the late fees. This bill would authorize by statute the practice of waiving the \$400 charge for late filing supplemental corporate fees if the business did not receive the prescribed forms for this filing.

The Department of State estimates that as the number of electronic filings increase, the fiscal impact of discounting the fees will average out with what the department pays out for manual processing as this type of filing decreases.

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 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 type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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 (ss. 607.0122(23) and 607.193, F.S.). The division has contracted with a private vendor for the manual processing of the annual report. The vendor currently charges between \$3 and \$6 (or an average of \$4.35) per report for this service. The division reports that since it began contracting for this service, the charges have gone up about five percent a year. The number of annual reports filed with the division totals about 650,000. Roughly 3,300 of these are filed electronically. These fees 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 required reports and to use third party private contractors (i.e. credit card companies) to service payment for these electronic filings. Such companies charge an average \$5 per filing convenience fee for this service. As with other retail business arrangements, the servicing company does not collect this convenience fee from the consumer, but from the ultimate recipient of the fee. Consequently, the division has been charging these filers \$155 to cover the additional cost. This situation creates unequal treatment for report filers since the division is experiencing an almost comparable cost per filing of manual reports, but does not pass the charge on to the filer.

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. 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 corporate annual report filing fee by an amount equal to the convenience charge for electronic filing of that fee. Currently corporations that choose to file their reports electronically are charged an additional convenience fee that manual filers do not have to pay. This discount would put electronic filing fees on par with manual filing fees, both for the amounts charged to the corporation and the amounts ultimately realized by the department.

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:

Based on last year's electronic filings, the Corporations Trust Fund deposits will be reduced by approximately \$16,500 (\$5 discount for 3,300 electronic filings). The department would have paid approximately \$14,355 had these filings been processed manually by the contracted vendor. The difference of \$2,145 is negligible. SEE FISCAL COMMENTS.

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Corporations that file their annual statements electronically will pay fees on par with those that file their reports manually.

D. FISCAL COMMENTS:

Department of State estimates that as the number of electronic filings increase, the fiscal impact of discounting the fees will average out with what the department pays out for manual processing as the cost increases for this type of filing and the number of this type of filings decreases.

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:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BANKING:

Prepared by:

Staff Director:

Susan F. Cutchins

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