

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 Policy and Steering Committee on Ways and Means

BILL: CS/SB 1444

INTRODUCER: Transportation and Economic Development Appropriations Committee and Senator Fasano

SUBJECT: Supplemental Corporate Fees

DATE: March 22, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Belcher	Noble	TA	Fav/CS
2.	Belcher	Coburn	WPSC	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill:

- Removes a provision that requires the Department of State to waive a \$400 late fee that would be assessed a business entity (corporations, limited liability companies, and limited partnerships) for filing its annual report and paying its annual fees after the May 1 deadline; and
- Requires administratively-dissolved entities to pay a fee for reinstatement, rather than receiving a waiver. This fee is \$600 for corporations, \$100 for limited liability companies, and \$500 for limited partnerships.

As in current law, fees collected are deposited into the General Revenue Fund. On March 15, 2010, a Revenue Estimating Conference was held and adopted the consensus result at the low-impact estimate. This is a \$16.4 million cash increase to the General Revenue Fund in Fiscal Year 2010-11 with an annualized increase of \$8.8 million.

This bill substantially amends section 607.193 of the Florida Statutes.

II. Present Situation:

Annually, on May 1, corporations,¹ limited liability companies,² and limited partnerships³ are required to file an annual report and to pay an annual report filing fee⁴ and a supplemental corporate fee⁵ to the Division of Corporations within the Department of State. All fees collected are deposited into the General Revenue Fund.

If the supplemental corporate fee is remitted after May 1, a \$400 late charge must be imposed, unless the business entity did not receive the department’s notice to file. The department gives electronic notice via email addresses that are on file with the division, but does provide an accommodation for persons with disabilities by sending a postcard when requested. Almost 100% of the entities are noticed electronically and most entities file via the department’s website.

If a business entity claims that the department failed to give notice, the law requires the department to waive the \$400 late fee. If the business entity fails to file by 5 p.m. Eastern Time on the third Friday in September, the department may commence a proceeding to administratively dissolve the entity.⁶

If a dissolved entity files for reinstatement, they are required to pay all unpaid annual report filing fees and supplemental corporate fees and the applicable reinstatement fee; however, the department does not assess the late fee. In addition, if the business entity receives a waiver on the late fee, they are consequently granted a reinstatement-fee waiver. The law does not specifically mandate or allow a reinstatement fee waiver.

Table of Current Fees:

Business Entity	Annual Report Filing Fee	Supplemental Corporate Fee	Total	Late Fee	Reinstatement Fee
Corporations	\$61.25	\$88.75	\$150.00	\$400.00	\$600.00
Limited Liability Companies	\$50.00	\$88.75	\$138.75	\$400.00	\$100.00
Limited Partnerships	\$411.25	\$88.75	\$500.00	\$400.00	\$500.00

During Fiscal Year 2008-09, 15,321 entities filed late and paid the \$400 fee. As a result, \$6,128,400 was collected and deposited into the General Revenue Fund. However, 136,400 entities filed late, were granted a waiver, and did not pay the \$400 late fee.

During Fiscal Year 2008-09, after dissolution, 8,227 entities filed for reinstatement and paid the applicable reinstatement fee. And as a result, \$4,936,200 was collected and deposited into the General Revenue Fund. However, due to the waiver, 45,346 dissolved entities filed for reinstatement and did not pay the reinstatement fee (varies from \$100 to \$600).

¹ Section 607.1622(2), F.S.

² Section 608.4511(2), F.S.

³ Section 620.1210(3), F.S.

⁴ Section 607.0122(13), F.S., for corporations; section 608.452(4), F.S., for limited liability companies; and section 620.1109(7), F.S., for limited partnerships.

⁵ Section 607.193(1), F.S.

⁶ Section 607.1420(1)(a), F.S., for corporations; section 608.448(1)(a), F.S., for limited liability companies; section 620.189(1)(b), F.S., for limited partnerships.

The following is a 3-year history of the filings and fees.

	FY 2006-07	FY 2007-08	FY 2008-09
Annual reports filed	791,889	864,321	1,238,678
Annual reports filed with late fee	12,629	12,818	15,312
Annual reports filled with a late-fee waiver	120,959	119,133	136,400
Electronic filers	67%	67%	100%
Reinstatements with fee waiver	44,044	49,390	45,346
Total late fees waived	\$48,383,600	\$47,653,200	\$54,560,000
Total reinstatement fees waived (estimated)*	\$26,426,400	\$29,634,000	\$27,207,600
Total fees waived (estimated)	\$74,810,000	\$77,287,200	\$81,767,600
* Based on \$600 fee			

III. Effect of Proposed Changes:

The bill removes the supplemental corporate late-fee waiver that is being granted to business entities (corporations, limited liability companies, and limited partnerships) by the Department of State, Division of Corporations. This will also result in the department discontinuing the reinstatement fee waiver that is being granted to entities that received the late-fee waiver.

The bill will take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill discontinues a supplemental corporate late-fee waiver and a reinstatement-fee waiver currently available to corporations, limited liability companies, and limited partnerships but the level of the fees would not change.

B. Private Sector Impact:

The bill discontinues a supplemental corporate late-fee waiver and a reinstatement-fee waiver currently available to corporations, limited liability companies, and limited partnerships. Entities can avoid the fee by filing annual reports and paying filing and supplemental fees by the May 1 deadline.

C. Government Sector Impact:

The bill discontinues a supplemental corporate late-fee waiver and a reinstatement-fee waiver currently available to corporations, limited liability companies, and limited partnerships. This change will result in additional fees deposited into the General Revenue Fund. On March 15, 2010, a Revenue Estimating Conference was held and adopted the consensus result at the low-impact estimate.⁷ This is a \$16.4 million cash increase to the General Revenue Fund in Fiscal Year 2010-11 with an annualized increase of \$8.8 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Transportation and Economic Development Appropriations Committee on March 19, 2010:

The CS differs from the bill as filed in the following way:

- Removes a provision from current law that requires the Department of State to waive a \$400 late fee that would be assessed a business entity (corporations, limited liability companies, and limited partnerships) for filing its annual report and paying its annual fees after the May 1 deadline; and
- Requires administratively-dissolved entities to pay a fee for reinstatement, rather than receiving a waiver. This fee is \$600 for corporations, \$100 for limited liability companies, and \$500 for limited partnerships.

B. Amendments:

None.

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

⁷ Revenue Estimating Conference – Supplemental Filing Fee Late Fee Waiver, Office of Economic & Demographic Research, the Florida Legislature, p. 194.