

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TED 10-10 Supplemental Corporate Fee
SPONSOR(S): Transportation & Economic Development Appropriations Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Transportation & Economic Development Appropriations Committee		Lolley	Creamer
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Proposed Committee Bill TED 10-10 amends s. 607.193, F.S., deleting an exception to a \$400 late charge that is imposed when a corporation, a limited liability company, or a limited partnership fails to meet the deadline and files its annual report after May 1. As a result, the late fee will be due regardless of whether the business entity professes to have received the uniform business report prescribed by the department, or not.

The bill amends subsection (13) of s. 607.0122, F.S., clarifying the \$600 reinstatement fee for a corporation includes the \$400 late charge imposed under s. 607.193(2)(b), F.S.

The bill also amends s. 607.1422, F.S. clarifying that all fees owed by a corporation at the time of reinstatement include the reinstatement fee required under s. 607.0122(13), F.S.

This bill conforms to the House of Representatives proposed General Appropriations Act increasing revenues to the General Revenue Fund in order to fund legislative priorities.

The bill has an estimated positive fiscal impact to the General Revenue Fund of \$51.6 million in fiscal year 2010-11, \$38.1 million in fiscal year 2011-12, and \$33.7 million in fiscal year 2012-13.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 607.193(1), F.S. provides for an annual supplemental corporate fee of \$88.75 imposed on each business entity that is authorized to transact business in Florida and is required to file an annual report with the Department of State. The supplemental corporate fee is in addition to the fee for filing an annual report and is paid at the time the annual report is filed.¹

Section 607.193(2), F.S. provides that in addition to the fees levied under ss. 607.0122, 608.452, and 620.1109, F.S. and the supplemental corporate fee, a late charge of \$400 is imposed if the supplemental corporate fee is remitted after May 1. The late charge may be waived if the business entity did not receive the uniform business report prescribed by the department. The department uses the uniform business report as the annual report.²

As provided in s. 607.1420(1), F.S., a corporation may be administratively dissolved for failure to file its annual report and pay the annual report filing fee by the third Friday in September. If a corporation is administratively dissolved, the corporation may apply for reinstatement. The corporation must submit a reinstatement form and all fees then owed by the corporation.³ Pursuant to s. 607.0122, F.S., the reinstatement fee for corporations is \$600.

It should be noted that corporations brought class action against Secretary of State alleging late annual report and reinstatement fees violated the Excessive Punishments section of the Florida constitution. The Circuit Court for Miami-Dade County granted motion for class certification, and Secretary of State appealed. This is an ongoing lawsuit.

Effect of Proposed Changes

¹ Section 607.193(2)(a), F.S.

² Section 606.06(2), F.S.

³ Section 607.1422(1), F.S.

The bill amends subsection (13) of s. 607.0122, F.S., clarifying the \$600 reinstatement fee for a corporation includes the \$400 late charge imposed under s. 607.193(2)(b), F.S., which is the current practice of the department.

The bill amends s. 607.193, F.S. deleting the exception to the late charge being imposed. If the annual report is filed after May 1, a late charge of \$400 would be imposed, regardless of whether the business entity professes to have received the uniform business report prescribed by the department, or not.

The bill also amends s. 607.1422, F.S. clarifying that a corporation must pay a \$600 reinstatement fee in addition to any other fees owed at the time of reinstatement.

B. SECTION DIRECTORY:

- Section 1 Amends subsection (13) of s. 607.0122, F.S.; clarifies that the reinstatement fee includes the late charge imposed under s. 607.193, F.S.
- Section 2 Amends s. 607.193, F.S.; deletes an exception to a required supplemental corporate fee late charge.
- Section 3 Amends s. 607.1422, F.S.; clarifies fees owed for reinstatement.
- Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of State (Department), in FY 2008-09, 15,321 electronic filers were late and paid the late charge. In the same period, 136,400 electronic filers claimed no notice had been provided and the Department waived the fee as required by law. If the 136,400 late filers who claimed the exception were assessed the \$400 late charge, additional revenues to the General Revenue Fund would have been \$54,560,000.

In FY 2008-09, the \$600 reinstatement fee for administrative dissolution was waived for 45,346 corporations.⁴ Total additional revenues to the General Revenue Fund would have been \$27,207,600.

For FY 2010-11, the estimated increased revenue as high as \$51.6 million to the General Revenue Fund based on the changes in this bill.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁴ Statistics furnished by Department of State.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If a business entity specified in s. 607.193, F.S. fails to file its annual report before the May 1 deadline, it will be required to pay the \$400 late charge. If a corporation does not comply with the May 1 deadline and fails to file its annual report before the third Friday in September, the corporation may be administratively dissolved⁵ and must apply for reinstatement. At that time, all fees owed by the corporation must be paid including the reinstatement fee of \$600.⁶

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁵ Section 607.1420(1)(a), F.S.

⁶ Section 607.1422(1), F.S.