

By: Senator(s) Clarke

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2890

1 AN ACT TO AMEND SECTION 79-4-16.22, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE CERTAIN CORPORATIONS TO FILE THE REQUIRED ANNUAL
3 REPORTS WITH THE STATE TAX COMMISSION AND TO PROVIDE THAT THE FEES
4 COLLECTED FOR FILING ANNUAL REPORTS SHALL BE TRANSFERRED TO THE
5 STATE GENERAL FUND; TO AMEND SECTIONS 79-4-1.20 AND 79-4-1.22,
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 79-4-16.22, Mississippi Code of 1972, is
10 amended as follows:

11 79-4-16.22. (a) Each domestic corporation, and each foreign
12 corporation authorized to transact business in this state, shall
13 deliver as an attachment to its income tax return * * * an annual
14 report to the State Tax Commission within two and one-half (2-1/2)
15 months of its fiscal year end unless an extension is approved.

16 All annual reports shall be forwarded by the State Tax Commission
17 to the Secretary of State within a reasonable time for recording.

18 The report shall set forth:

19 (1) The name of the corporation and the state or
20 country under whose law it is incorporated;

21 (2) The address of its registered office and the name
22 of its registered agent at that office in this state;

23 (3) The address of its principal office;

24 (4) The names and business addresses of its directors
25 and principal officers;

26 (5) A brief description of the nature of its business;

27 (6) The total number of authorized shares, itemized by
28 class and series, if any, within each class; and

29 (7) The total number of issued and outstanding shares,
30 itemized by class and series, if any, within each class.

31 (b) Information in the annual report must be current as of
32 the date the annual report is executed on behalf of the
33 corporation.

34 (c) If an annual report does not contain the information
35 required by this section, the Secretary of State shall notify
36 promptly the reporting domestic or foreign corporation in writing
37 and return the report to it for correction. If the report is
38 corrected to contain the information required by this section and
39 delivered to the Secretary of State within thirty (30) days after
40 the effective date of notice, it is deemed to be timely filed.

41 (d) A fee of Twenty-five Dollars (\$25.00) shall be collected
42 by the State Tax Commission for the filing of each annual report
43 and the proceeds of the fee shall be deposited promptly, not less
44 than monthly, to the State General Fund.

45 **SECTION 2.** Section 79-4-1.20, Mississippi Code of 1972, is
46 amended as follows:

47 79-4-1.20. (a) A document must satisfy the requirements of
48 this section, and of any other section that adds to or varies
49 these requirements, to be entitled to filing by the Secretary of
50 State.

51 (b) Except as required in Section 79-4-16.22, Section
52 79-4-1.01 et seq. must require or permit filing the document in
53 the Office of the Secretary of State.

54 (c) The document must contain the information required by
55 Section 79-4-1.01 et seq. It may contain other information as
56 well.

57 (d) The document must be typewritten or printed, or, if
58 electronically transmitted, it must be in a format that can be
59 retrieved or reproduced by the Secretary of State or other
60 receiving entity in typewritten or printed form.

61 (e) The document must be in the English language. A
62 corporate name need not be in English if written in English
63 letters or Arabic or Roman numerals, and the certificate of
64 existence required of foreign corporations need not be in English
65 if accompanied by a reasonably authenticated English translation.

66 (f) The document must be executed:

67 (1) By the chairman of the board of directors of a
68 domestic or foreign corporation, by its president, or by another
69 of its officers;

70 (2) If directors have not been selected or the
71 corporation has not been formed, by an incorporator; or

72 (3) If the corporation is in the hands of a receiver,
73 trustee or other court-appointed fiduciary, by that fiduciary.

74 (g) The person executing the document shall sign it and
75 state beneath or opposite his signature his name and the capacity
76 in which he signs. The document may but need not contain a
77 corporate seal, an attestation, acknowledgment or verification. A
78 document required or permitted to be filed under this chapter
79 which contains a copy of a signature, however made, is acceptable
80 for filing.

81 (h) If the Secretary of State has prescribed a mandatory
82 form for the document under Section 79-4-1.21, the document must
83 be in or on the prescribed form.

84 (i) Except as provided in Section 79-4-16.22, the document
85 must be delivered to the Office of the Secretary of State for
86 filing. Delivery may be made by electronic transmission if, to
87 the extent and in the manner permitted by the Secretary of State
88 or, for annual reports, the State Tax Commission. If it is filed
89 in typewritten or printed form and not transmitted electronically,
90 the Secretary of State or, for annual reports, the State Tax
91 Commission, may require one (1) exact or conformed copy to be
92 delivered with the document except as provided in Sections
93 79-4-5.03 and 79-4-15.09.

94 (j) When the document is delivered to the Office of the
95 Secretary of State or, for annual reports, the State Tax
96 Commission, for filing, the correct filing fee, and any franchise
97 tax, license fee, or penalty required to be paid therewith by this
98 section or any other law must be paid or provision for payment
99 made in a manner permitted by the Secretary of State or, for
100 annual reports, the State Tax Commission. For annual reports, the
101 exact or conformed copy of the annual report shall be forwarded
102 promptly by the State Tax Commission to the office of the
103 Secretary of State.

104 (k) Whenever a provision of this chapter permits any of the
105 terms of a plan or a filed document to be dependent on facts
106 objectively ascertainable outside the plan or filed document, the
107 following provisions apply:

108 (1) The manner in which the facts will operate upon the
109 terms of the plan or filed document shall be set forth in the plan
110 or filed document.

111 (2) The facts may include, but are not limited to:

112 (i) Any of the following that is available in a
113 nationally recognized news or information medium either in print
114 or electronically: statistical or market indices, market prices
115 of any security or group of securities, interest rates, currency
116 exchange rates, or similar economic or financial data;

117 (ii) A determination or action by any person or
118 body, including the corporation or any other party to a plan or
119 filed document; or

120 (iii) The terms of, or actions taken under, an
121 agreement to which the corporation is a party, or any other
122 agreement or document.

123 (3) As used in this subsection:

124 (i) "Filed document" means a document filed with
125 the Secretary of State or, for annual reports, the State Tax

126 Commission, under any provision of this chapter except Chapter 15
127 or Section 16.21; and

128 (ii) "Plan" means a plan of domestication,
129 nonprofit conversion, entity conversion, merger or share exchange.

130 (4) The following provisions of a plan or filed
131 document may not be made dependent on facts outside the plan or
132 filed document:

133 (i) The name and address of any person required in
134 a filed document.

135 (ii) The registered office of any entity required
136 in a filed document.

137 (iii) The registered agent of any entity required
138 in a filed document.

139 (iv) The number of authorized shares and
140 designation of each class or series of shares.

141 (v) The effective date of a filed document.

142 (vi) Any required statement in a filed document of
143 the date on which the underlying transaction was approved or the
144 manner in which that approval was given.

145 (5) If a provision of a filed document is made
146 dependent on a fact ascertainable outside of the filed document,
147 and that fact is not ascertainable by reference to a source
148 described in subsection (k)(2)(i) or a document that is a matter
149 of public record, or the affected shareholders have not received
150 notice of the fact from the corporation, then the corporation
151 shall file with the Secretary of State or, for annual reports, the
152 State Tax Commission, articles of amendment setting forth the fact
153 promptly after the time when the fact referred to is first
154 ascertainable or thereafter changes. Articles of amendment under
155 this subsection (k)(5) are deemed to be authorized by the
156 authorization of the original filed document or plan to which they
157 relate and may be filed by the corporation without further action
158 by the board of directors or the shareholders.

159 **SECTION 3.** Section 79-4-1.22, Mississippi Code of 1972, is
160 amended as follows:

161 79-4-1.22. (a) The Secretary of State or, for annual
162 reports, the State Tax Commission, shall collect the following
163 fees when the documents described in this subsection are delivered
164 to him for filing:

165	Document	Fee
166	(1) Articles of incorporation	\$50.00
167	(2) Application for use of indistinguishable name	25.00
168	(3) Application for reserved name	25.00
169	(4) Notice of transfer of reserved name	25.00
170	(5) Application for registered name	50.00
171	(6) Application for renewal of registered name	50.00
172	(7) Corporation's statement of change of registered	
173	agent or registered office or both	10.00
174	(8) Agent's statement of change of registered office for	
175	each affected corporation	10.00
176	not to exceed a total of	1,000.00
177	(9) Agent's statement of resignation	No fee
178	(10) Amendment of articles of incorporation	50.00
179	(11) Restatement of articles of incorporation	50.00
180	with amendment of articles	50.00
181	(12) Articles of merger or share exchange	50.00
182	(13) Articles of dissolution	25.00
183	(14) Articles of revocation of dissolution	25.00
184	(15) Certificate of administrative dissolution	No fee
185	(16) Application for reinstatement following	
186	administrative dissolution	50.00
187	(17) Certificate of reinstatement	No fee
188	(18) Certificate of judicial dissolution	No fee
189	(19) Application for certificate of authority	500.00
190	(20) Application for amended certificate of	
191	authority	50.00

192	(21) Application for certificate of withdrawal	25.00
193	(22) Certificate of revocation of authority to	
194	transact business	No fee
195	(23) Application for reinstatement following	
196	administrative revocation	100.00
197	(24) Certificate of reinstatement	No fee
198	(25) Annual report	25.00
199	(26) Articles of correction	50.00
200	(27) Application for certificate of existence or	
201	authorization	25.00
202	(28) Any other document required or permitted to	
203	be filed by Section 79-4-1.01 et seq.	25.00
204	(b) The Secretary of State shall collect a fee of	
205	Twenty-five Dollars (\$25.00) each time process is served on him	
206	under Section 79-4-1.01 et seq. The party to a proceeding causing	
207	service of process is entitled to recover this fee as costs if he	
208	prevails in the proceeding.	
209	(c) The Secretary of State shall collect the following fees	
210	for copying and certifying the copy of any filed document relating	
211	to a domestic or foreign corporation:	
212	(1) One Dollar (\$1.00) a page for copying; and	
213	(2) Ten Dollars (\$10.00) for the certificate.	
214	(d) The Secretary of State may collect a filing fee greater	
215	than the fee set out herein, not to exceed the actual costs of	
216	processing such filing, if the form for such filing prescribed by	
217	the Secretary of State has not been used.	
218	SECTION 4. This act shall take effect and be in force from	
219	and after January 1, 2006.	