

By: Senator(s) Clarke

To: Judiciary, Division A

## 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 \* \* \* an annual report to the State Tax Commission within  
14 two and one-half (2-1/2) months of its fiscal year end unless an  
15 extension is approved. The report shall set forth:

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

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

20 (3) The address of its principal office;

21 (4) The names and business addresses of its directors  
22 and principal officers;

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

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

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

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

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

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

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

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

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

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

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

(e) The document must be in the English language. A corporate name need not be in English if written in English

61 letters or Arabic or Roman numerals, and the certificate of  
62 existence required of foreign corporations need not be in English  
63 if accompanied by a reasonably authenticated English translation.

64 (f) The document must be executed:

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

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

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

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

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

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

92 (j) When the document is delivered to the Office of the  
93 Secretary of State or, for annual reports, the State Tax

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

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

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

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

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

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

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

121 (3) As used in this subsection:

122 (i) "Filed document" means a document filed with  
123 the Secretary of State or, for annual reports, the State Tax  
124 Commission, under any provision of this chapter except Chapter 15  
125 or Section 16.21; and

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

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

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

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

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

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

(v) The effective date of a filed document.

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

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

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

159           79-4-1.22. (a) The Secretary of State or, for annual  
160 reports, the State Tax Commission, shall collect the following  
161 fees when the documents described in this subsection are delivered  
162 to him for filing:

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

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