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CORP. FILING REQUIREMENTS

House Bill 4512 as enrolled
Public Act 197 of 1996
Third Analysis (8-19-96)

Sponsor: Rep. Gary L. Randall
House Committee: Commerce
Senate Committee: Financial Services

THE APPARENT PROBLEM:

At present, for-profit corporations must file with the Corporation and Securities Bureau an annual report containing identifying information about each entity. Among other things, the annual report submitted must include financial information such as a company's assets and liabilities as of the previous calendar (or the company's fiscal) year. The bureau collects all of this information and makes it available to the public via a 900- telephone number. Some people feel that when the state collects and disseminates information relating to a corporation's finances in this way, it intrudes on business activity and imposes on corporations unnecessary costs.

THE CONTENT OF THE BILL:

The Business Corporation Act requires that each domestic corporation and each foreign corporation file a report with the administrator no later than May 15 of each year. The bill would delete all of the following from the list of information required to be included in a corporation's annual report:

- * The state and date of incorporation, the term of corporate existence--if other than perpetual--and (if a foreign corporation) the date when authorized to transact business in Michigan;
- * The total number of authorized shares;
- * The nature and book value of the property owned and used by the corporation listed separately as to property within and outside of Michigan;
- * A complete and detailed statement of the corporation's assets and liabilities as shown by its books, at the close of business on December 31 or upon the date of the close of its latest fiscal year;
- * Other information as the administrator reasonably requires.

The bill would require the annual report to continue to contain 1) the corporation's name; 2) the name of the corporation's resident agent and address of its registered office in Michigan; 3) the names and residence addresses of the corporation's president, secretary, treasurer, and directors; 4) the general nature and kind of business in which the corporation is engaged; and 5) for each foreign corporation authorized to operate in Michigan, the most recent percentage used in computing the tax required by the Single Business Tax Act.

However, if there were no changes in the information provided in the last filed report, the corporation could file a report certifying this fact to the administrator.

The bill is tie-barred to Senate Bill 143, which would delete from the act a requirement that an annual report be open to reasonable inspection by the public promptly after it was filed by the corporation.

M.C.L. 450.1911

FISCAL IMPLICATIONS:

The Corporations and Securities Bureau, within the Department of Commerce, says the bill would not affect state or local budget expenditures. (8-16-96)

ARGUMENTS:

For:

The bill would delete provisions from the Business Corporation Act that require corporations to file with the state an annual report containing various financial information that is then made available for the public. This requirement serves no purpose other than to burden these types of businesses with unnecessary, and costly, paperwork and record-keeping, and exposes to public scrutiny private data pertaining to the company's finances. Moreover, supplying this information gives competitors an advantage--particularly if they do not operate in Michigan and, thus, are not required to

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submit the same data--as they can determine a Michigan-based company's financial condition merely by contacting the Department of Commerce. The bill would reduce the burden on such companies and improve their competitive position by deleting requirements that their annual reports include certain financially sensitive information. However, by continuing to require that an annual report include identifying information, the bill would ensure that the officers behind a corporate entity still could easily be identified and located. And out-of-state corporations would still have to provide information necessary to determine their tax liability under the Single Business Tax Act.

Against:

Allowing citizens access to corporate information is good public policy. The practice of requiring corporate reports dates back to the late 1800s, when government increased efforts to oversee the practices of businesses in order to preclude monopolistic trusts. Also, government collection and dissemination of information in corporate reports serves a beneficial purpose. For example, when a company offers a contract on a bidding process, it can easily inquire about a bidder's financial status and history; the corporate report offers an objective, third-party source for this type of information that is readily available. The information that the report no longer would have to contain serves some useful purposes and should continue to be required.

Response:

The kind of information that one company needs to know about another before entering into a business agreement can be obtained from commercial entities such as credit reporting agencies. Government should not be involved in making information about one business available to another.

Against:

The bill should go one step further by cutting the annual filing fee required of such corporations--currently, \$15--in half. Small businesses are burdened both by the cost of preparing the annual report and by the filing fee. Moreover, according to information offered by the Senate Fiscal Agency, the revenue from corporations' annual reporting fees amounts to \$4.5 million yearly, even though it costs the department only about \$2.5 million annually to administer the program; the balance reportedly is transferred to the general fund. Thus, nearly half of the revenue raised from the \$15 fee is more like a tax on corporations.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.