LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 19** HLS 161ES 52
Bill Text Version: **ENROLLED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: March 14, 2016 3:06 PM
Author: JAMES
Dept./Agy.: Revenue
Subject: Corporate Franchise Tax
Analyst: Greg Albrecht

TAX/CORP FRANCHISE EN +$10,340,000 GF RV See Note
Provides relative to the entities to which corporate franchise tax applies (Item #28)

The bill expands the entities to which corporate franchise tax applies to also include partnerships, joint ventures, and limited liability corporations (LLCs) electing to be treated as corporations for federal tax purposes. An exception is provided for those LLCs electing to be treated as S-corporations for federal tax purposes. The definition of domestic corporation is expanded, and allows a holding company deduction from taxable capital for debt to related parties.

Provides an exception for at least one un-named subsidiary that has already been purchased by an S-corporation between January 1, 2012 and January 1, 2014.

Raises the initial (first year) franchise tax from $10 to $110, but requires taxpayers already in existence to pay the actual franchise tax instead. Applicable to taxable periods beginning on or after January 1, 2017.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	$10,340,000	$89,300,000	$94,000,000	$94,000,000	$94,000,000	**$381,640,000**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$10,340,000**	**$89,300,000**	**$94,000,000**	**$94,000,000**	**$94,000,000**	**$381,640,000**

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

REVENUE EXPLANATION

The Department of Revenue estimated the potential effect of this bill (before S-corp subsidiary exception was added to the bill) by looking at tax returns over a three year period (2011 - 2013) that only reported income tax. These would be returns likely to be exempt from franchise tax (over 27,000 returns). Of this group, returns reporting positive taxable income (8,600 returns) were recomputed as if franchise tax applied to them, resulting in average franchise tax liabilities of $87 million over this three year period. A smaller group of returns (1,600) reporting zero taxable income but positive capital stock, surplus, and undivided profit were also recomputed for franchise tax purposes, resulting in average liability of $25 million per year. A subset set of these returns (LLC filers electing S-corp status) were determined to represent 6% of the tax liability of the estimated liabilities. There were a large number of returns (13,000) reporting no franchise tax data, and were not included in the analysis.

These returns suggest that, over time, approximately $94 million of potential franchise tax liability could be generated by the bill ($100 million from the entire set less $6 million from the S-corp electing subset).

The franchise tax is due in advance, so that a January 1, 2017 tax year beginning applicability could generate additional revenue in FY17, but many of these filers would typically file for extension and full payment of these new liabilities in the spring of 2017 (FY17) is unlikely, although estimated payments are required for franchise tax. Taxpayer education and compliance ramp-up would likely be significant at first, with most of any additional revenue being received in FY18 and beyond. If the typical filing pattern occurs, roughly 11% or $10.34 million of the estimate above may be expected in FY17, with $89.3 million gained in FY18, and $94 million in FY19. Based on initial filings in FY15, an additional $117,500 per year may be received as a result of the increase in the initial tax. This would imply growth in the tax, however, the last two years of the three-year dataset estimated generated essentially flat results that were lower than the first year of the dataset. Thus, no growth was built into the estimates above.

The exception for subsidiaries purchased by S-corps between January 1, 2012 and January 1, 2014 works to reduce the estimated revenue gain of the bill by some unknown amount.

Senate	Dual Referral Rules	House
[ ] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		[ ] 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}
[x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}		[ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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