COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0285-04
Bill No.: Perfected SCS for SB 18
Subject: Corporations; Taxation and Revenue - General
Type: Original
Date: February 8, 2011

Bill Summary: Would limit a corporation's franchise tax liability to the previous year's tax, or to the corporation's first year franchise tax in the case of a new corporation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue *	$0	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund *	**$0**	**(Unknown)**	**(Unknown)**

* Estimated future revenue foregone.

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume this proposal would not result in additional costs or savings to their organization.

This proposal would cap the maximum corporate franchise payment per corporation at the level the corporation paid in tax year 2010. The proposal would reduce general and total state revenues; however, BAP defers to the Department of Revenue for an estimate of reduced revenues.

Officials from the **University of Missouri, Economic Policy Analysis and Research Center** (EPARC) assume this proposal would cap annual corporate franchise tax at the amount paid in the 2010 tax year for existing corporations, and cap franchise taxes for new corporations at the corporation's first year amount. EPARC officials estimated the fiscal impact of the proposal as follows.

Using the latest data available for Missouri corporations (2008), we estimate that in 2010 total franchise tax due would be $76,703,327.94. If this proposal was enacted, we would not see an increase for 2011 in franchise tax due for existing corporations, and there would be no impact on Net General Revenue due to this proposal.

ASSUMPTION (continued)

Regarding new corporations, the impact would depend on the number and the tax base associated with each new corporation. Both would involve forecasts. It should be noted that the forecast for the tax base of new corporations is shifted to zero. For new corporations in Missouri after 2010, there would be an incentive to legally report no tax base. Since their future tax liabilities are limited to the first year's franchise tax amount, entrants into the Missouri market could incorporate, report zero assets in the state for the first year, and pay no franchise tax for that first year of incorporation. In all years after the first tax reporting period, their tax liability would also be zero.

Officials from the **Department of Revenue** (DOR) assume this proposal would limit the amount of franchise tax owed by corporations and would result in a reduction in Total State Revenue.

* For years ending before December 31, 2010, the annual franchise tax would be one thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed $10.0 million. Beginning January 1, 2011, the franchise tax would be equal to one thirtieth of one percent of the corporation's outstanding shares and surplus, but a corporation's franchise tax liability could not exceed the liability of such corporation for the taxable year ending on or before December 31, 2010.

* If the corporation had no franchise tax liability for the taxable year ending on or before December 31, 2010 because such corporation was not in existence or doing business in Missouri, the franchise tax for the first taxable year in which such corporation exists would be equal to one thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed ten million dollars, but in no case could the tax liability for any subsequent year exceed the amount of tax for the first full taxable year such corporation was in existence or doing business in Missouri.

DOR would need to make form changes, and DOR and ITSD-DOR would need to make programming changes to various tax systems.

DOR provided the following estimate of the fiscal impact to the General Revenue fund.

ASSUMPTION (continued)

For the years 2002 through 2009, there was an average annual franchise tax increase of 6.23 percent. This increase was calculated on corporations that had in excess of $10 million in assets and as if all franchise taxes were paid at a rate of one thirtieth of one percent. If future franchise tax due is limited to the tax owed in the corporation's calendar year 2010 franchise tax return, the estimated negative impact would be $5.4 million in 2011, $11.3 million in 2012, $17.5 million in 2013, $24 million in 2014, and $31 million in 2015.

DOR officials also provided total franchise tax collections of $87.5 million for the year ended June 30, 2010.

DOR officials assume that one FTE Revenue Processing Technician I (Range 10, Step L) would be required for every 7,800 errors generated and one FTE Revenue Processing Technician I (Range 10, Step L) would be required for every 2,600 pieces of correspondence generated.

In summary, DOR officials provided an estimate of the administrative cost to implement this proposal including two additional FTE and the related equipment and expense, of $83,623 for FY 2012, $81,203 for FY 2013, and $82,061 for FY 2014.

Oversight assumes that implementation of this proposal would be primarily limited to forms changes and IT processing edits, and that any additional personnel costs could be absorbed with existing resources. If unanticipated additional costs are incurred or if multiple proposals are implemented which increase the DOR workload, resources could be requested through the budget process.

DOR officials also provided an estimate of the IT cost to implement the proposal of $40,068 based on 1,512 FTE hours of programming time.

Oversight assumes that ITSD-DOR is provided with core funding to handle a certain amount of activity each year, and assumes ITSD-DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD-DOR could request funding through the appropriation process.

ASSUMPTION (continued)

Oversight notes that franchise tax collections fluctuate from year to year, and assumes that this proposal could result in a reduction of revenues in the future if the DOR estimate of future taxable capital and surplus is realized. For fiscal note purposes only, Oversight will indicate an unknown revenue reduction for the General Revenue Fund for that foregone potential future revenue.

Oversight assumes that this proposal would have a fiscal impact on the General Revenue Fund beginning in FY 2012, since corporations with tax years beginning in January, 2011 would file tax returns in FY 2012 for those tax years.

FISCAL IMPACT - State Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
Reduction in future revenue - limitation on franchise tax increases *	$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *	**$0**	**(Unknown)**	**(Unknown)**

* Estimated future revenue foregone.

FISCAL IMPACT - Local Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to any small business which is subject to the corporate franchise tax.

FISCAL DESCRIPTION

The proposed legislation would limit a corporation's franchise tax liability to the previous year's tax, or to the corporation's first year franchise tax in the case of a new corporation.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Division of Budget and Planning
Department of Revenue
University of Missouri
Economic Policy Analysis and Research Center

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