COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0824-02
Bill No.: SCS for SB 169
Subject: Economic Development Department; Taxation and Revenue
Type: Original
Date: February 23, 2007

Bill Summary: This proposal creates a tax credit for qualified equity investments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	($62,926)	($69,379)	($71,459 to $15,071,459)
Total Estimated Net Effect on General Revenue Fund*	**($62,926)**	**($69,379)**	**($71,459 to $15,071,459)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on Other State Funds*	**$0**	**$0**	**$0**

*** The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	**1 FTE**	**1 FTE**	**1 FTE**

☒ 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 2008	FY 2009	FY 2010
Local Government*	**$0**	**$0**	**$0**

*** The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version of this proposal, officials from the **Office of Administration - Budget and Planning (BAP)** stated this legislation is similar to the federal New Markets Tax Credit Program which authorizes tax credits to any investor who makes investments in Low Income Communities.

This legislation could have a negative impact on general revenue up to $15 million dollars in any fiscal year. The credit may be taken against any state tax liability - income tax except withholding, corporate franchise tax, financial institution tax, public utility tax, or insurance retaliatory tax. BAP deferred to the departments of Economic Development and Insurance for more specific estimates on the impact of these tax credits.

Officials from the **Department of Economic Development (DED)** state they would be required to implement and administer the qualified equity investment tax credit program. DED assumes the need for one Economic Development Incentive Specialist II (at $46,776 annually) plus associated equipment and expenses. DED assumes the total cost for the additional FTE to be roughly $91,000 per year.

Oversight has, for fiscal note purposes only, changed the starting salary for DED's Economic Development Incentive Specialist II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight also assume DED will not require additional office space for the one additional FTE and has reduced DED's estimated expense accordingly.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. DIFP can not estimate how much would be lost in premium tax revenue as a result of tax credits. Credits cannot exceed total tax liability (both Premium tax and Retaliatory tax). Premium/Retaliatory tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by this tax credit each year.

ASSUMPTION (continued)

DIFP will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, DIFP may need to request more expense and equipment appropriation through the budget process.

In response to a previous version of this proposal, officials from the **Department of Revenue (DOR)** stated the legislation creates a tax credit for qualified equity investments:

DOR assumed the proposal would have the following administrative impact:

Corporate/Franchise and Withholding Tax believe they can handle the increased workflow with existing staff even though the carry-forward provisions are indefinite, which will make tracking difficult.

Personal Tax: Due to the carry-forward provisions, Personal Tax would require 1 Tax Processing Technician I for every 6,000 credits claimed.

The recapture requirement would create an additional line on the MO-1040, therefore, Personal Tax would also require 2 Temporary Tax Employees for key-entry, 1 Tax Processing Technician I for every 19,000 returns to be verified by Quality Review, and 1 Tax Processing Technician I for every 2,400 pieces of correspondence received.

Due to the Statewide Information Technology Consolidation, DOR's response to a proposal will now also reflect the cost estimates prepared by OA-IT for impact to the various systems. As a result, the impact shown may not be the same as previous fiscal notes submitted. In addition, if the legislation is Truly Agreed to and Finally Passed the OA-IT costs shown will be requested through appropriations by OA-IT.

Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources, however; if priorities shift, additional FTE/overtime would be needed to implement. Office of Administration Information Technology (ITSD DOR) estimates that this legislation could be implemented utilizing 3 existing CIT III for 2 months and an additional 5 CIT III for 2 months at a rate of $66,976.

In summary, DOR assumed the need for three FTE Tax Processing Tech I's (each at $23,916 annually) plus two temporary employees. DOR assumes a total costs for these additional persons to be roughly $140,000 per year.

ASSUMPTION (continued)

In response to similar proposals from 2006 (SB 1186 and HB 1974), the Department of Revenue assumed they would not require additional FTE to implement this proposal. Therefore, based on previous responses as well as the uncertainty of the number of taxpayers who would qualify for this credit, **Oversight** will assume that DOR will not need additional FTE from this proposal.

Officials from the **Office of the Secretary of State - Administrative Rules (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than $2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

The proposal does not specify a tax year for which these credits could start being utilized. Therefore, **Oversight** will assume the program could commence on August 28, 2007. Therefore, since the applicable percentage is zero for the first two credit allowance date, Oversight assumes the first possible year that tax credits could be utilized would be for fiscal year 2010 (if an investment is made in calendar year 2007, the investor would not be able to take a credit until the third year (2009), which possibly could impact the tax returns filed in fiscal year 2010. Oversight will range the fiscal impact of the tax credits from $0 (no credits being redeemed in a given year) to the annual limit of $15,000,000.

Oversight compared the total tax credit issuances relative to the total tax credit redemptions for the previous three years in order to determine a relationship between the two. Oversight discovered that the annual redemptions ranged from 79 percent to 86 percent of the annual issuances. Depending on the program, the redeemed credits may have been issued several years prior and carried forward to the years studied; however, Oversight will utilize an estimated redemption total of 83 percent of tax credits issued. Therefore, under this proposal, if $15,000,000 of credits are issued, Oversight would assume $12,450,000 (83%) of credits to be redeemed, reducing Total State Revenues.

This proposal could reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2008 (10 Mo.)	FY 2009	FY 2010

GENERAL REVENUE

Costs - Department of Economic Development (DED)			
Personal Service	($29,623)	($36,614)	($37,712)
Fringe Benefits	($13,407)	($16,571)	($17,068)
Expense and Equipment	($19,896)	($16,194)	($16,679)
Total Costs - DED	($62,926)	($69,379)	($71,459)
FTE Change - DED	1 FTE	1 FTE	1 FTE
Loss - tax credit for qualified equity investments.	$0	$0	$0 to ($15,000,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($62,926)**	**($69,379)**	**($71,459 to $15,071,459)**
Estimated Net FTE change for General Revenue Fund	1 FTE	1 FTE	1 FTE

Note: This does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2008 (10 Mo.)	FY 2009	FY 2010
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that qualify for the tax credit could be fiscally impacted from this proposal.

FISCAL DESCRIPTION

This proposal provides an income tax credit in an amount equal to the applicable percentage of the adjusted purchase price paid to the issuer of a qualified equity investment. The applicable percentage is zero percent for each of the first two credit allowance dates and seven percent for the third credit allowance date and eight percent for the next four credit allowance dates. The tax credit is non-refundable and non-transferrable, but tax credits earned by "pass - through entities" may be allocated to the partners, members, or shareholders of the entity for their direct use. To the extent that the tax credits issued exceed a taxpayer's liability, the remaining tax credits may be carried forward until fully claimed. The tax credit has an annual aggregate cap of fifteen million dollars. The act contains provisions allowing the Department of Economic Development to recapture tax credits issued under the act in certain situations.

This act contains a sunset provision. The provisions of the act will automatically sunset six years from the effective date of the act unless re-authorized, however the sunset date shall not preclude a taxpayer who makes a qualified equity investment prior to the sunset date from claiming credits issued under the act

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

Department of Economic Development
Department of Revenue
Office of Administration - Budget and Planning
Office of the Secretary of State
Department of Insurance, Financial Institutions and Professional Registration

Mickey Wilson

Mickey Wilson, CPA
Director
February 23, 2007