COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1357-01
Bill No.: SB 355
Subject: Tax Credits, Economic Development
Type: Original
Date: March 8, 2019

Bill Summary: This proposal modifies provisions relating to the New Business Facility Tax Credit.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	($21,600,000)	($21,600,000)	($21,600,000)
Total Estimated Net Effect on General Revenue	**($21,600,000)**	**($21,600,000)**	**($21,600,000)**

Note: The fiscal note 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.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Economic Development** (**DED**) assume this legislation modifies the Business Facility Tax Credit by amending the definition of New Business Facility Investment under 135.100 to remove the requirement that it be "real and depreciable tangible personal property" and adds that it can be the purchase, lease, or license of software and hardware.

It allows an eligible company to get eight times the amount of the license. (Current law allows the original cost of owned property, or eight times the net annual rental rate of leased property, to be used as the new business facility investment for determination of the credit).

The fiscal impact of these projects will be over the next 15 years, given the current 2025 sunset. The total fiscal impact is anticipated to be $324,000,000. The estimate uses expenditures currently provided for the program and assumes consistent annual expenditures for each eligible notice and subsequent 10 years of benefits.

In response to a similar proposal (HB 560), DED noted the statute is written for a specific company that tried to get this amount previously but was denied because a software license is not real and depreciable personal property. This company will have at least 9 projects over the next 15 years. The statute sunsets in 2025 and the company will get 10 years of benefits after the last year the project is approved. The amount that they would have gotten for the first project is $36 million over 10 years. Assuming they do all 9 projects and do the same software purchases at each location, that is a cost of $324 million to the state over 15 years, for a cost of $21,600,000 per year.

Office of the **Office of Administration Division of Budget and Planning** (**B&P**) assume to the extent businesses qualify for additional tax credits, this proposal could impact General and Total State Revenues by an unknown amount and the calculation pursuant to Article X, Section 18(e). Additionally, to the extent this proposal encourages other economic activity, General and Total State Revenue may increase, but B&P cannot estimate the induced revenues.

Office of the **Department of Revenue** assume there is no fiscal impact from this proposal.

Office of the **Department of Insurance, Financial Institutions and Professional Registration** assume a potential unknown decrease of premium tax revenues may occur as a result of the changes to the Expanded Business Facility tax credit. Premium 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

ASSUMPTION (continued)

Foreign Insurance Fund is later distributed to school districts throughout 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 tax credits each year.

Oversight notes according to the Tax Credit Analysis submitted by the Department of Economic Development regarding this program, the Business Facility tax credit program had the following activity;

	FY 2016	FY 2017	FY 2018	FY 2019 (projected)	FY 2020 (projected)
Certificates Issued	10	7	8	9	10
Projects	10	7	8	9	10
Amount Authorized	$4,778,641	$8,044,858	$8,762,244	$9,993,516	$11,242,705
Amount Issued	$4,778,641	$8,044,858	$8,762,244	$9,993,516	$11,242,705
Amount Redeemed	$4,593,362	$4,046,742	$6,329,689	$6,895,526	$7,757,466

Amount Outstanding - $8,672,825   Amount Authorized but Unissued - not declared

Oversight notes that the New and Expanded Business Facility Credit program awards credits from $75 to $125 per job (for a new company) and per $100,000 of new investment each year for 10 years. The program has no cap. Oversight also notes that if a company meets the requirements and receives the credits, the state could receive positive benefits; however, Oversight assumes these benefits (additional workers hired and business capital expenditures) to be indirect benefits and will not reflect them in the fiscal note.

Oversight currently does not have the data or resources available to produce independent revenue projections, therefore Oversight uses the same assumptions for revenue growth as the FY 2020 Consensus Revenue Estimate (CRE) for revenue growth in all future years. The CRE assumes an increase in net general revenue collections of $192.6 million for FY 2020.

Oversight notes pursuant to §143.011 - §143.022 (SBs 509 & 496 2014) if the previous fiscal year's net general revenue collections exceed the highest net general revenue collections of the three previous fiscal years by at least $150 million, then there will be a reduction in the individual income tax rate by one-tenth of a percent and a reduction for individual income tax filers of 5% of "business income." These reductions will reduce net General Revenue collections by an estimated $160.0 million annually. Oversight notes the proposed legislation may impact future net revenue collections and could impact future triggering of the rate reductions required under §143.011 - §143.022.

FISCAL IMPACT - State Government	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE			
Revenue Reduction - DOR §135.100 - expansion of the New Business Facility tax credit	($21,600,000)	($21,600,000)	($21,600,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**($21,600,000)**	**($21,600,000)**	**($21,600,000)**

Note: The fiscal note 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 2020 (10 Mo.)	FY 2021	FY 2022
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that qualify for the tax credit could be impacted.

FISCAL DESCRIPTION

Current law provides a tax credit for the establishment of new business facilities, which include certain requirements for new business facility investments. This act modifies the definition of "new business facility investment" to include property acquired by purchase, lease, or license, including the right to use software and hardware via on-demand network access to a shared pool of configurable computing resources.

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 Insurance, Financial Institutions and Professional Registration
Department of Revenue
Office of Administration Division of Budget and Planning

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March 8, 2019

Ross Strope
Assistant Director
March 8, 2019

JH:LR:OD