LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 279** HLS 21RS 142
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: April 14, 2021 7:01 PM	**Author:** DEVILLIER
Dept./Agy.: Revenue	
Subject: Phase Out Corporate Franchise Tax	**Analyst:** Greg Albrecht

TAX/CORP FRANCHISE OR -$397,000,000 GF RV See Note

Phases out the corporate franchise tax over a 5-year period

Proposed law phases out the corporate franchise tax evenly over a 5-year period, beginning with taxable years beginning on and after January 1, 2023.

Contingent upon adoption of a constitutional amendment contained in HB____ of this session.

EXPENDITURES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 -YEAR TOTAL**
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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						

REVENUES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	($35,700,000)	($111,100,000)	($190,500,000)	($269,900,000)	**($607,200,000)**
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	**$0**	**($35,700,000)**	**($111,100,000)**	**($190,500,000)**	**($269,900,000)**	**($607,200,000)**

EXPENDITURE EXPLANATION

Tax system changes will have to be made each year to provide for the changing tax liability calculation over the life of the phase-out. These changes are typically estimated as several thousands of dollars of staff time for design, modification, and testing (estimated at $26,000 per year in this case). In addition, a phase-out of the tax will likely result in some confusion among taxpayers regarding their tax liability for particular years, amended returns, and prior year overpayments. Additional costs will be incurred communicating with and advising taxpayers as the phase-out progresses.

REVENUE EXPLANATION

The base of the estimated revenue phase-out was established by the Dept. of Revenue as the franchise tax liabilities after nonrefundable credits for tax year 2018, the most current complete filing year, inclusive of the extension of the tax to LLCs. This base is $397 million. The bill's 5-year even phase-out generates a schedule of liability reductions starting at 20% or $79.4 million in the first year, accumulating by that amount each year for five years until the entire $397 million liability reduction is effective for tax year 2027. Liability reductions are first realized in FY23 because the franchise tax is due at the beginning of the tax year, and the bill begins the phase-out with tax year 2023.

This simple phase-out is complicated by the fact that in any particular fiscal year returns are filed for a number of prior tax years. Past filing patterns suggest that within a fiscal year, 45% of franchise tax returns apply to the immediate tax year, 50% to the preceding tax year, and 5% from earlier tax years. Incorporating these factors into the phase-out schedule, results in a first fiscal year revenue reduction of $35.7M ($397M x 20% x 45%). The second year reduction will include a 50% filing factor applied to the first year's 20% tax reduction plus the second year's 40% tax reduction and a 45% filing factor, resulting in a $111.1M revenue reduction. The third year reduction will include a 5% filing factor applied to the first year's 20% reduction plus a 50% filing factor applied to the second year's 40% tax reduction plus the third year's 60% tax reduction with a 45% filing factor, resulting in a $190.5M revenue reduction. This pattern accumulates the tax year liability reductions realized in fiscal years over a seven year period before the full amount of corporate franchise tax revenue is eliminated in FY29.

Actual revenue reductions are further complicated by the carry-forward of overpayments from prior years, which are still due to the taxpayer even if the tax is phased out. For the base tax year of 2018, the franchise tax credit carry-forward was some $189.5 million. Taxpayers will claim these refunds in the years of the phase-out, increasing the annual revenue reduction estimates above.

In addition, refundable tax credits and rebate payments charged against the franchise tax will continue to be refunded and paid as they will be shifted to the income tax. This, in combination with claims of refund carry-forwards, and the normal variability of the tax, means that actual tax receipt changes in any particular fiscal year can differ materially from those estimated above.

Senate — Dual Referral Rules — House

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

Christopher A. Keaton
Legislative Fiscal Officer