

LEGISLATIVE FISCAL OFFICE

Fiscal Note



Fiscal Note On: **HB 19** HLS 082ES 24
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

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Dept./Agy.: Revenue	Analyst: Greg Albrecht
Subject: Accelerate Borrowed Capital Exclusion From Franchise Tax	

TAX/CORP FRANCHISE OR -\$57,000,000 GF RV See Note Page 1 of 1
 Accelerates phase-out of borrowed capital from the tax base of the corporation franchise tax (Item #4)

Current law provides a schedule of phase-out of the corporate franchise tax on borrowed capital. The first phase of that schedule (14%) had its fiscal effect in FY06 and will continue through FY12, when a 100% exclusion from the tax for this capital will be effective (FY06 14%, FY07 28%, FY08 42%, FY09 56%, FY10 70%, FY11 84%, and FY12 100%).

Proposed law shortens the phase-out schedule by two years, making the 100% exclusion of borrowed capital from the franchise tax effective with tax year 2010 (FY10 effect) rather than tax year 2012 (FY12 effect). In addition, the shares of borrowed capital to be included in the tax base for tax periods 2008 and 2009 are reduced, from 58% to 44% for 2008 and 44% to 23% for 2009.

EXPENDITURES	2008-09	2009-10	2010-11	2011-12	2012-13	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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2008-09	2009-10	2010-11	2011-12	2012-13	5 -YEAR TOTAL
State Gen. Fd.	(\$57,000,000)	(\$44,000,000)	(\$26,000,000)	\$0	\$0	(\$127,000,000)
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	(\$57,000,000)	(\$44,000,000)	(\$26,000,000)	\$0	\$0	(\$127,000,000)

EXPENDITURE EXPLANATION

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

REVENUE EXPLANATION

The effects of the current phase-out schedule are already anticipated in the official revenue forecast which reduces state general fund revenue by the following amounts: \$97 million in FY09, \$117 million in FY10, \$135 million in FY11, and \$161 million in FY12, at which point borrowed capital is fully phased out of the tax base. These estimates are based on \$350 million per year of corporate franchise tax liabilities before tax credits. With borrowed capital removed from the tax base, credits can still be taken against the balance of the franchise tax and then, typically, against the corporate income tax.

The bill reduces the shares of borrowed capital to be included in the tax base for tax periods 2008 and 2009, from 58% to 44% for 2008 and 44% to 23% for 2009. These changes reduce tax liabilities for these years beyond what is currently anticipated in the official forecasts by \$23 million for 2008 and \$34 million for 2009. Since the franchise tax is due in advance, much of the 2008 tax period liability will have been paid in the spring of 2008 (during FY08) before the provisions of this bill can be implemented by taxpayers. Thus, FY09 revenue losses will be composed of the additional liability reduction applicable to tax year 2009 (\$34 million, \$131 million rather than \$97 million currently expected) as well as refunds for the liability reduction of tax year 2008 (\$23 million). Total FY09 revenue losses would be some \$57 million.

The bill will also make the 100% phase-out effective for tax periods that begin after December 31, 2009, the 2010 tax year, resulting in a total loss of approximately \$161 million in FY10 and FY11 rather than the currently anticipated losses of \$117 million and \$135 million, respectively. Thus, under this bill the state general fund impact for FY10 is an additional reduction of \$44 million, and for FY11 and additional \$26 million. There is no effect on FY12 and subsequent years from this bill because current law would have fully phased out borrowed capital from the tax base by those years anyway.

Senate Dual Referral Rules

13.5.1 >= \$500,000 Annual Fiscal Cost

13.5.2 >= \$500,000 Annual Tax or Fee Change

House

6.8(F) >= \$500,000 Annual Fiscal Cost

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

H. Gordon Monk

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Legislative Fiscal Officer