

Fiscal Estimate Narratives
DOR 3/14/2008

LRB Number	07-4036/1	Introduction Number	SB-510	Estimate Type	Original
Description Requiring the combined reporting of corporate income and franchise taxes; supplemental funding for the renewable energy grant and loan program; Wisconsin higher education grants for technical college students; income eligibility for child care subsidies; incentive grants to technical college district boards for training in advanced manufacturing skills; airport development zone and technology zone tax credits; funding for the Department of Transportation; the Regional Transit Authority and commuter rail transit systems; authorizing the Wisconsin Health and Educational Facilities Authority to issue bonds to finance projects related to research facilities; and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

The bill contains several provisions, but only two affect Wisconsin income and franchise taxes. First, the bill requires a corporation engaged in a unitary business with another corporation or person to file Wisconsin income and franchise taxes in a combined tax return that apportions income of the entire unitary business among each member of the unitary group. Second, the bill authorizes the Department of Commerce to allocate unused credits under the airport development zone program to technology zones for which the \$5 million maximum under the technology zone program is insufficient.

This bill also allows the Regional Transit Authority to increase the regional transit authority fee from the current rate of \$2 per transaction but not to exceed \$15 per transaction, if the governing body of the Regional Transit Authority approves the increase.

Combined Reporting

Beginning in tax years that begin on or after January 1, 2008, the bill would require an affiliated group of business entities that are part of a unitary business to file a combined tax report for state corporate income and franchise taxes. Under combined reporting, all the separate business units of a commonly controlled group operating as a unitary business—divisions, subsidiaries, and affiliates—are treated as a single entity for tax purposes. A commonly controlled group does not include exempt insurers.

A unitary business is an affiliated group of corporations that operate as a unit. Businesses are presumed to be unitary if they have unity of ownership, operation and use that is characterized by:

- centralized management, executive force, purchasing, advertising, or accounting,
- intercorporate sales, leases, services, debts or use of proprietary materials, and
- interlocking directorates or corporate officers.

The bill generally provides for water's edge combination. Members of a commonly controlled group operating as a unitary business that are required to use combined reporting include:

- any member that is incorporated in the United States, or formed under the laws of any state or any territory or possession of the United States.
- any member that is a domestic international sales corporation or controlled foreign sales corporations.
- any member with an average of at least 20% for its property, payroll and sales factors assignable to a location within the United States during any part of the taxable year.
- any member that that earns at least 20% of its income from intangible property or service-related activities that are deductible against the business income of other members of the group.
- any member that does business in a tax haven if it is engaged in an activity that is sufficient for the tax haven jurisdiction to impose a tax under federal law.
- any other member to the extent of their income within the United States as determined under the Internal Revenue Code and by its apportionment factors related to that income.

Each combined group would be required to appoint a sole designated agent that is responsible for acting on behalf of the taxpayer members. The designated agent would be the parent corporation of the combined group if such parent corporation was a taxpayer member of the group and the income of the parent corporation was included in the combined report. If there is no such parent, the designated agent would be appointed by the taxpayer members. The taxable year of the designated agent is the combined group's taxable year.

Each taxpayer member would compute its taxable income determined under federal income tax laws, modified for state purposes. The business income of the group would equal the sum of each member's income. Each member's share of the group business income apportioned to the state would equal its share of total group sales. Sales between members of a group would not be included in the sales factor computation.

Fiscal Effect

Based on the department's 2003 corporate tax sample, it is estimated that the combined reporting provisions of the bill will result in an annual revenue increase of \$93 million beginning in FY09.

The bill would result in one time department costs of \$300,000 related to programming changes. The bill does not provide funding for these costs.

Allocation of Airport Development Zone Credits to Technology Zones

Under current law, the total amount of income and franchise tax credits that taxpayers may claim for conducting business in all airport development zones, for all taxable years, is \$9 million.

Also, the Department of Commerce may designate up to eight areas in the state as Technology Zones. The maximum eight Technology Zones have been designated. The total amount of income and franchise tax credits that taxpayers may claim for conducting business in a technology zone is \$5 million.

Under this bill, the Department of Commerce may allocate the amount of unallocated airport development zone tax credits to technology zones for which the \$5 million maximum has been allocated, except that the total amount allocated from the airport development zone program to all technology zones may not exceed \$6 million.

Fiscal Effect

Airport Development Zones - According to information supplied by the Department of Commerce, no airport development zones have been designated, and there are no pending applications for designation. Therefore, in the absence of this bill, it is likely that there would be no revenue lost during the biennium through the designation of an airport development zone.

The first technology zones were designated July 1, 2002, and at least one is reaching its statutory limit of \$5 million in tax credit. Therefore, during the life of the technology zone tax credits were allocated at an average rate of \$833,333 per year (\$5 million / 6 years). In addition, in tax year 2005 approximately 50% of the amount of Technology Zone credit that had been claimed was used. Assuming that tax credits would be transferred from the airport development zones to technology zones at the same rate, and assuming that 50% of the transferred credits claimed are used in the year claimed, then the fiscal effect of the bill is estimated to be a revenue loss of approximately \$417,000 in FY09 ($\$833,333 \times .5$).

Regional Transit Authority

Under current law, the counties of Kenosha, Racine, and Milwaukee must create a Regional Transit Authority (RTA). The RTA may impose a vehicle rental transaction fee of \$2. Under the bill, the RTA may impose a fee of up to \$15 per vehicle rental. Kenosha, Racine, and Milwaukee Counties may also submit to the voters an advisory referendum regarding any proposed increase in the RTA vehicle rental fee.

The RTA imposed the vehicle rental fee beginning on July 1, 2006. Based on collections over the last four calendar quarters for which data is available, the current \$2 per vehicle rental transaction fee imposed by the RTA is expected to generate \$900,000 annually. If the RTA imposes the maximum \$15 fee allowed under the bill, RTA vehicle rental fees could grow to \$6.7 million annually, or an estimated increase of \$5.8 million over current annual collections. The actual increase may be higher or lower depending economic growth within Kenosha, Racine, and Milwaukee counties; changes in behavior due to the increased fee; or the degree to which recent car rental activity differs from long-term trends.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2007 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$300,000 in one time costs for programming changes								
II. Annualized Costs:								
Annualized Fiscal Impact on funds from:								
	Increased Costs	Decreased Costs						
A. State Costs by Category								
State Operations - Salaries and Fringes	\$	\$						
(FTE Position Changes)								
State Operations - Other Costs								
Local Assistance								
Aids to Individuals or Organizations								
TOTAL State Costs by Category	\$	\$						
B. State Costs by Source of Funds								
GPR								
FED								
PRO/PRS								
SEG/SEG-S								
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)								
	Increased Rev	Decreased Rev						
GPR Taxes	\$93,000,000	\$-417,000						
GPR Earned								
FED								
PRO/PRS								
SEG/SEG-S								
TOTAL State Revenues	\$93,000,000	\$-417,000						
NET ANNUALIZED FISCAL IMPACT								
	<u>State</u>	<u>Local</u>						
NET CHANGE IN COSTS	\$	\$						
NET CHANGE IN REVENUE	\$92,583,000	\$						
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DOR/ Rebecca Boldt (608) 266-6785

Rebecca Boldt (608) 266-6785

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