LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **SB 223** SLS 19RS 171
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: April 28, 2019 7:29 PM
Author: ALLAIN
Dept./Agy.: Revenue
Subject: Corporate Income Tax
Analyst: Greg Albrecht

TAX/TAXATION OR SEE FISC NOTE GF RV

Provides relative to state income taxation of Subchapter S corporations and other flow through entities. (gov sig)

For federal purposes, income, losses, and taxes of an S-Corp is passed down to its shareholders. Current LA law does not recognize S-Corps, requiring them to file as a C-Corp for LA income tax purposes. LA does provide for an S-Corp exclusion where the S-Corp can exclude the income/loss that is passed down and taxed at the shareholder's level. Current LA law requires the S-Corp, if not electing the exclusion, to pay income tax at the corporate rates of 4%, 5%, 6%, 7% and 8% on all taxable income in excess of $200,000. Entities taxed as a partnership for federal tax purposes are also taxed as such for LA tax purposes. For these entities, all of their income/losses and tax responsibility is passed down to the partners or members. Proposed law would allow these entities to elect to be taxed for LA purposes as if they filed a C-corp return at the federal level, and pay state tax at the entity level as opposed to the shareholder/partner level. They would be allowed a federal income tax deduction equal to the federal income tax they would have paid on their LA net income if they had filed a C-corp return at the federal level. The state tax rates these entities would be subject to are set at the rates tax of individuals filing married jointly: 2% on the first $25,000, 4% on the next $75,000, and 6% on income above $100,000.
Effective for tax periods beginning on and after January 1, 2019.

EXPENDITURES	2019-20	2020-21	2021-22	2022-23	2023-24	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	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	2019-20	2020-21	2021-22	2022-23	2023-24	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
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						

EXPENDITURE EXPLANATION

Tax system changes will have to be made and 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).

REVENUE EXPLANATION

The Dept. of Revenue indicates that while it does not capture the return data necessary to fully estimate the impact of the bill, it expects the bill to result in an increase in state tax liabilities and collections. If all eligible entities make the election provided for by the bill, income currently taxed at the individual level will be taxed at the entity level. While the entity level income will face the rate and bracket structure of individuals with the married filing joint status rather than the corporate rate and bracket structure, the Dept. expects more of this income to fall into a higher bracket than it does currently. Consequently, state tax liabilities and receipts are expected to be higher than under current law. The Dept. was able to estimate that if all 35,000 returns that utilized the current S-Corp exclusion at 100% were to make the election provided for by the bill, state tax liabilities and revenue would increase by some $268 million.

However, since the bill is providing an election option, it would seem that eligible entities and their shareholders would attempt to minimize tax burdens. Thus, it may occur that only entities with combined entity/shareholder tax situations that result in lower overall tax burdens exercise the election option of the bill. Under that scenario state tax liabilities and receipts can be expected to decline.

Senate Dual Referral Rules
☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S & H}
☒ 13.5.2 >= $500,000 Annual Tax or Fee Change {S & H}

House
☐ 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}

John D. Carpenter
Legislative Fiscal Officer