GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 575 (Second Edition)

SHORT TITLE: Modify Corporate Apportionment Formula.

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:					
General Fund	***Minimum loss of $1.5 million annually - See Assumptions and Methodology***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue; NC Department of Commerce

EFFECTIVE DATE: Effective for taxable years beginning on or after January 1, 2010.

BILL SUMMARY:
Senate Bill 575 encourages the location and expansion of capital intensive corporations in North Carolina by changing the corporate apportionment formula from a three-factor formula based on property, payroll and double-weighted sales to a single sales factor formula. A single sales factor formula would lower the corporate income tax liability of a corporation with relatively large shares of its nationwide property in the State but a relatively small share of its nationwide sales in the State.

ASSUMPTIONS AND METHODOLOGY:
Under current law, corporate income tax liability for multi-state taxpayers is apportioned using a three-factor apportionment formula. The formula is a composite of three factors: a property factor, a payroll factor, and a sales factor. The property factor represents the ratio of the taxpayer's real and tangible personal property in North Carolina to its real and tangible personal property everywhere. Likewise, the payroll factor and the sales factor represent a ratio of the taxpayer's payroll and sales in North Carolina to its payroll and sales everywhere. Under North Carolina's current apportionment formula, the payroll and property factors are each weighted 25% and the sales factor is weighted at 50%.

SB 575 would change the apportionment formula for eligible taxpayers so that only the sales factor would be considered in apportioning income. Under this method, income is apportioned by applying a fraction, the numerator of which is the total sales of the corporation in the State and the denominator is the total sales of the corporation everywhere. This method of apportionment would provide a tax reduction to a corporation with relatively large shares of its nationwide property and payroll in North Carolina but a relatively small share of its nationwide sales in North Carolina.

The Department of Revenue provided data for the top 100 companies based on investment in tangible personal property and appraised property value for purposes of franchise tax base. The information provided included the companies' property, sales and payroll factors. Three companies were identified that would meet the eligibility requirement for a capital intensive company, that is, each has a property factor that is at least 75% of the total of the three factors. By changing to a single factor apportionment formula, these companies would have reduced income tax liability of approximately $1.5 million annually.

If additional companies locate in North Carolina and qualify as capital intensive corporations, the revenue loss would increase by an amount depending on the amount of income apportionable to the State under current law versus the single factor formula.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

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