

REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE

(Caskey, Hosey, Whitmire, Lowe, and Weeks - Staff Contact: Teesha Trapp)

HOUSE BILL 3810

H. 3810 -- Rep. Elliott: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-20-50, RELATING TO THE IMPOSITION OF LICENSE TAXES ON CORPORATIONS, SO AS TO PROVIDE THAT THE FEE DOES NOT APPLY TO ANY PORTION OF THE FIRST FIFTY MILLION DOLLARS OF CERTAIN CAPITAL STOCK AND PAID-IN OR CAPITAL SURPLUS.

Received by Ways and Means:

January 25, 2023

Summary of Bill:

This bill provides a corporate license fee exemption for the first \$50,000,000 of capital stock and paid-in or capital surplus of a qualifying corporation whose corporate headquarters and principal place of business is in this state if the investment is from a qualifying venture capital, angel or accredited investor, or private investment firm.

Estimated Revenue Impact:

The bill will reduce General Fund corporate license fee revenue by approximately \$616,000 in FY 2023-24 for the first half of tax year 2024, and \$1,232,000 in FY 2024-25 and thereafter for the full tax year. Based upon the current forecast for FY 2023-24, the annual impact for a full year is less than 1 percent of total corporate license fee revenue.

Other Notes/Comments:

Received **FAVORABLE REPORT** from Economic Development subcommittee on March 28, 2023.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 3810 Introduced on January 25, 2023
Author: Elliott
Subject: License Fee on Corporations
Requestor: House Ways and Means
RFA Analyst(s): Jolliff
Impact Date: March 27, 2023

Fiscal Impact Summary

This bill provides a corporate license fee exemption for the first \$50,000,000 of capital stock and paid-in or capital surplus of a qualifying corporation whose corporate headquarters and principal place of business is in this state if the investment is from a qualifying venture capital, angel or accredited investor, or private investment firm.

This bill will not impact expenditures for the Department of Revenue (DOR). The agency will administer the provisions of the bill with existing staff and resources.

The bill will reduce General Fund corporate license fee revenue by approximately \$616,000 in FY 2023-24 for the first half of tax year 2024, and \$1,232,000 in FY 2024-25 and thereafter for the full tax year. Based upon the current forecast for FY 2023-24, the annual impact for a full year is less than 1 percent of total corporate license fee revenue.

Explanation of Fiscal Impact

Introduced on January 25, 2023

State Expenditure

This bill provides a corporate license fee exemption for the first \$50,000,000 of capital stock and paid-in or capital surplus of a qualifying corporation. The bill requires the corporation to obtain a certificate from the South Carolina Research Authority certifying that the excluded investments are from a qualifying entity that meets the definitions provided of a venture capital fund, angel or accredited investor, or a private investment firm. Further, the corporation must submit an annual report to DOR that contains the name of each qualifying entity, the date of the contribution, the manner in which the entity meets one of the qualifications, the amount of the contribution for each year attributable to each entity, and any other information that DOR may require. DOR will be able to administer the new exemption with existing staff and resources. Therefore, the bill will not impact state expenditures.

State Revenue

This bill exempts the first \$50,000,000 of capital stock and paid-in capital surplus from the corporate license fee for companies with their principal place of business and headquarters in South Carolina if the contribution is from a qualifying investment entity. Under current law,

companies are assessed a corporate license fee of \$15 plus \$1 for each \$1,000 of capital stock and paid-in or capital surplus. The minimum fee is \$25.

In order to qualify for the corporate license fee exemption, the equity contribution must be from a qualifying entity defined as:

- A venture capital fund defined in 17 CFR § 275.203(l)-1,
- An angel or accredited investor as defined in 17 CFR § 230.501, and
- A private investment firm that does not solicit capital from investors, excluding another qualifying entity, or the general public and meets one of the exemptions outlined in the Investment Company Act of 1940.

The South Carolina Research Authority provided data from PitchBook, a financial data and software company, regarding the number of qualifying capital investments and the amount of capital invested in South Carolina companies each year from 2010 to 2020. On average, new investments totaled approximately \$123,600,000 annually for 40 companies. The amount of each investment ranges in value widely, but only 1 over the period reached \$50,000,000. The annual additional fee revenue for these investments total approximately \$124,206 per year. These data suggest that almost all of the qualifying investments reported would be fully exempt from the corporate license fee under this bill. The table below provides these figures.

**Estimated Annual Qualifying Investments and Applicable Corporate License Fees,
Since 2010**

Calendar Year	Number of Companies	New Capital Invested Per Year (\$ Millions)	Estimated Current Corporate License Fee for New Investments
2010	26	\$113.0	\$113,430
2011	20	\$46.6	\$46,900
2012	28	\$80.9	\$81,350
2013	32	\$95.9	\$96,350
2014	55	\$182.3	\$183,165
2015	53	\$137.1	\$137,875
2016	48	\$75.0	\$75,740
2017	51	\$164.4	\$165,175
2018	54	\$177.0	\$177,770
2019	28	\$169.3	\$169,750
2020	46	\$118.1	\$118,760
Total	441	\$1,359.7	\$1,366,265
Annual Average	40	\$123.6	\$124,206

Source: PitchBook via S.C. Research Authority

The qualifying investments since 2010 include companies that are no longer in business. Estimates for the percentage of venture capital investments that are not successful vary widely

depending on how success is measured. An article published by the Wall Street Journal in 2012 reported that the National Venture Capital Association estimates a failure range of 20 to 30 percent. Comparatively, on the high end, a Harvard Business School lecturer, Shikar Ghosh, estimates that 75 percent of U.S. venture capital investment start-ups do not return investors' capital. The article also states: "the common rule of thumb is that of ten start-ups, only three or four fail completely. Another three or four return the original investment, and one or two produce substantial returns."

Based upon this range, we would estimate that approximately 50 percent of total investments over the last 20 years are no longer active due to failures, buy-outs, or other events. If we assume that approximately \$123,600,000 has been invested annually for 20 years, original investments would total approximately \$2,472,000,000 for 800 companies. If 50 percent of those investments are no longer a part of an active corporation's capital, approximately \$1,236,000,000 remains in active capital investments for 400 companies.

We assume that the full \$1,236,000,000 in investments will be exempt from the corporate license fee under this bill for a fee reduction of \$1,242,000. However, we expect that these 400 companies would still pay the \$25 minimum fee, for a total of \$10,000. Under these assumptions, this bill would reduce General Fund corporate license fee revenue by a net of approximately \$1,232,000 annually.

The exemption is applicable for the tax year beginning after July 1, 2023. For most corporations, we anticipate that this exemption will first apply, therefore, beginning with tax year 2024, although some may impact the prior tax year. Under this assumption, the bill will reduce General Fund corporate license fee revenue by approximately \$616,000 in FY 2023-24 for the first half of tax year 2024, and \$1,232,000 in FY 2024-25 and thereafter for the full tax year. Based upon the current forecast for FY 2023-24, the annual impact for a full year is less than 1 percent of total corporate license fee revenue.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

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A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-20-50, RELATING TO THE IMPOSITION OF LICENSE TAXES ON CORPORATIONS, SO AS TO PROVIDE THAT THE FEE DOES NOT APPLY TO ANY PORTION OF THE FIRST FIFTY MILLION DOLLARS OF CERTAIN CAPITAL STOCK AND PAID-IN OR CAPITAL SURPLUS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12-20-50 of the S.C. Code is amended by adding:

(D)(1) A corporation subject to the provisions of this section whose corporate headquarters, as defined in Section 12-6-3410, and principal place of business, as defined in Section 12-6-30, are in South Carolina may exclude the first fifty million dollars of equity contributions from a qualifying entity from its paid-in or capital surplus subject to the annual license fee. To qualify for this exclusion, the corporation must obtain a certificate from the South Carolina Research Authority certifying that the exclusions result from equity contributions from a qualifying entity.

(2) For purposes of this subsection, a qualifying entity includes:

- (a) a venture capital fund as defined pursuant to 17 C.F.R. Section 275.203(1) 1;
- (b) an angel or accredited investor, as defined pursuant to 17 C.F.R. Section 230.501; and
- (c) a private investment firm that does not solicit capital from investors, excluding another

qualifying entity, or the general public and meets one of the exemptions outlined in the Investment Company Act of 1940.

(3) A corporation claiming this exclusion must:

(a) submit an annual report to the department that contains the name of each qualifying entity, the date of the equity contribution, the manner in which the qualifying entity meets the requirements of item (2), the amount of the paid-in or capital surplus for each year that is attributable to each qualifying entity, and any other information that the department may require; and

(b) keep detailed books and records, including segregating out equity contributions attributable to each qualifying entity and retaining information concerning the information required to be provided in subitem (a).

1 SECTION 2. This act takes effect upon approval by the Governor and first applies to the tax year
2 beginning after July 1, 2023.

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