

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Allison, Simrill, G.M. Smith, Hosey & G.R. Smith - Staff Contact: Katie Owen)

SENATE BILL 1033

S. 1033 -- Senators Campbell, Leatherman, Setzler, O'Dell and Alexander: A BILL TO AMEND CHAPTER 2, TITLE 12 OF THE 1976 CODE, RELATING TO TAXATION, BY ADDING SECTION 12-2-110, TO PROVIDE AN OUT-OF-STATE BUSINESS THAT CONDUCTS OPERATIONS WITHIN THIS STATE FOR THE PURPOSES OF PERFORMING WORK OR SERVICES RELATED TO A DECLARED STATE DISASTER OR EMERGENCY DURING A DISASTER PERIOD MUST NOT BE CONSIDERED TO HAVE ESTABLISHED A LEVEL OF PRESENCE THAT WOULD REQUIRE THAT BUSINESS TO REGISTER, FILE, AND REMIT STATE OR LOCAL TAXES OR THAT WOULD REQUIRE THAT BUSINESS OR ITS OUT-OF-STATE EMPLOYEES TO BE SUBJECT TO ANY STATE LICENSING OR REGISTRATION REQUIREMENTS OR ANY COMBINATION OF THESE ACTIONS.

Summary of Bill:

This bill codifies an existing proviso that allows an out of state business to be exempt from local licensing/registration requirements, Unemployment Insurance taxes in this state, state/local occupational licensing fees, Sales and Use Tax or Property Tax for equipment used for disaster relief during a declared state disaster or emergency.

Introduced: 02/19/2014

Received by Ways and Means: 03/20/2014

Estimated Fiscal Impact:

This bill codifies existing proviso 106.10 contained in the Appropriation Act and is expected to have no revenue impact.

Subcommittee Recommendation:

Adopted

Full Committee Recommendation:

Pending

Other Notes/Comments:

[CLICK HERE](#) to Edit Notes/Comments

Statement of Estimated State Revenue Impact

Date: March 4, 2014

Bill Number: S.1033

Authors: Campbell, Leatherman, and Setzler

Committee Requesting Impact: Senate Finance

Bill Summary

TO AMEND CHAPTER 2, TITLE 12 OF THE 1976 CODE RELATING TO TAXATION, BY ADDING SECTION 12-2-110, TO PROVIDE AN OUT-OF-STATE BUSINESS THAT CONDUCTS OPERATIONS WITHIN THIS STATE FOR THE PURPOSES OF PERFORMING WORK OR SERVICES RELATED TO A DECLARED STATE DISASTER OR EMERGENCY DURING A DISASTER PERIOD MUST NOT BE CONSIDERED TO HAVE ESTABLISHED A LEVEL OF PRESENCE THAT WOULD REQUIRE THAT BUSINESS TO REGISTER, FILE, AND REMIT STATE OR LOCAL TAXES OR THAT WOULD REQUIRE THAT BUSINESS OR ITS OUT-OF-STATE EMPLOYEES TO BE SUBJECT TO ANY STATE LICENSING OR REGISTRATION REQUIREMENTS OR ANY COMBINATION OF THESE ACTIONS.

REVENUE IMPACT ^{1/}

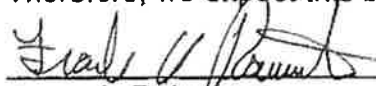
This bill codifies existing legislative directives contained in Appropriation Act proviso 106.10. Therefore, we expect this bill would have no revenue impact.

Explanation

This bill exempts out-of-state businesses that perform work services related to a declared state disaster or emergency from filing or remitting state or local taxes. An out-of-state business is defined as providing disaster or emergency related services when its presence is requested by a registered business in South Carolina or a state or local government. The out-of-state business, additionally, must have no presence or conduct no business in South Carolina except when requested in a disaster or emergency.

The out-of-state business meeting these requirements is exempt from all local business licensing or registration requirements or state and local taxes or fees including but not limited to unemployment insurance, state or local occupational licensing fees, sales or use tax, and property tax on equipment used or consumed during the disaster period. Out-of-state businesses performing emergency or disaster related work are not considered to have established residency or a presence that would require the business to file income or withholding taxes. The disaster period is defined as beginning within 10 days of the first declaration and extends for sixty days after the end of the declared disaster or emergency. Out-of-state businesses and employees are not exempt from transactions fees or taxes such as motor fuel user fees, accommodations taxes, car rental fees, or sales and use tax.

This bill codifies existing legislative directives contained in Appropriation Act proviso 106.10. Therefore, we expect this bill would have no revenue impact.



Frank A. Rainwater
Chief Economist

Analyst: Shuford

^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA.

South Carolina General Assembly
120th Session, 2013-2014

S. 1033

STATUS INFORMATION

General Bill

Sponsors: Senators Campbell, Leatherman, Setzler, O'Dell and Alexander

Document Path: l:\s-res\pgc\016emer.hm.pgc.docx

Introduced in the Senate on February 19, 2014

Introduced in the House on March 20, 2014

Last Amended on March 13, 2014

Currently residing in the House Committee on **Ways and Means**

Summary: Out-of-state businesses

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/19/2014	Senate	Introduced and read first time (<u>Senate Journal-page 7</u>)
2/19/2014	Senate	Referred to Committee on Finance (<u>Senate Journal-page 7</u>)
3/5/2014	Senate	Committee report: Favorable Finance (<u>Senate Journal-page 22</u>)
3/6/2014		Scrivener's error corrected
3/13/2014	Senate	Amended (<u>Senate Journal-page 16</u>)
3/13/2014	Senate	Read second time (<u>Senate Journal-page 16</u>)
3/13/2014	Senate	Roll call Ayes-40 Nays-3 (<u>Senate Journal-page 16</u>)
3/19/2014	Senate	Read third time and sent to House (<u>Senate Journal-page 21</u>)
3/20/2014	House	Introduced and read first time (<u>House Journal-page 18</u>)
3/20/2014	House	Referred to Committee on Ways and Means (<u>House Journal-page 18</u>)

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VERSIONS OF THIS BILL

[2/19/2014](#)

[3/5/2014](#)

[3/6/2014](#)

[3/13/2014](#)

1 AMENDED
2 March 13, 2014

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S. 1033

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6 Introduced by Senators Campbell, Leatherman, Setzler and O'Dell

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8 S. Printed 3/13/14--S.

9 Read the first time February 19, 2014.

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A BILL

11 TO AMEND CHAPTER 2, TITLE 12 OF THE 1976 CODE,
12 RELATING TO TAXATION, BY ADDING SECTION 12-2-110,
13 TO PROVIDE AN OUT-OF-STATE BUSINESS THAT
14 CONDUCTS OPERATIONS WITHIN THIS STATE FOR THE
15 PURPOSES OF PERFORMING WORK OR SERVICES
16 RELATED TO A DECLARED STATE DISASTER OR
17 EMERGENCY DURING A DISASTER PERIOD MUST NOT
18 BE CONSIDERED TO HAVE ESTABLISHED A LEVEL OF
19 PRESENCE THAT WOULD REQUIRE THAT BUSINESS TO
20 REGISTER, FILE, AND REMIT STATE OR LOCAL TAXES
21 OR THAT WOULD REQUIRE THAT BUSINESS OR ITS
22 OUT-OF-STATE EMPLOYEES TO BE SUBJECT TO ANY
23 STATE LICENSING OR REGISTRATION REQUIREMENTS
24 OR ANY COMBINATION OF THESE ACTIONS.

25 Amend Title To Conform

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

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30 SECTION 1. Chapter 2, Title 12 of the 1976 Code is amended by
31 adding:

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33 "Section 12-2-110. (A) For purposes of this section:

34 (1) 'Registered business in this State' or 'registered
35 business' means a business entity that is registered to do business
36 in this State before the declared state disaster or emergency.

37 (2) 'Out-of-state business' means a business entity that has
38 no presence in the State and conducts no business in this State
39 whose services are requested by a registered business or by a state
40 or local government for purposes of performing disaster or
41 emergency-related work in this State. This term includes a
42 business entity that is affiliated with the registered business in this

1 State solely through common ownership. The out-of-state business
2 must have no registrations or tax filings or nexus in the State
3 before the declared state disaster or emergency.

4 (3) 'Out-of-state employee' means an employee who does
5 not reside in or work in the State, except for disaster or emergency
6 related work during the disaster period.

7 (4) 'Infrastructure' means property and equipment owned or
8 used by communications networks, electric generation,
9 transmission and distribution systems, gas distribution systems,
10 water pipelines, and public roads and bridges and related support
11 facilities that services multiple customers or citizens including, but
12 not limited to, real and personal property such as buildings, offices,
13 lines, poles, pipes, structures and equipment.

14 (5) 'Declared state disaster or emergency' means a disaster
15 or emergency event:

16 (a) for which a Governor's state of emergency
17 proclamation has been issued;

18 (b) for which a presidential declaration of a federal major
19 disaster or emergency has been issued; or

20 (c) other disaster or emergency event within this State for
21 which a good faith response effort is required, and for which the
22 Director of the South Carolina Department of Revenue designates
23 the event as a disaster or emergency and thereby invokes this
24 section.

25 (6) 'Disaster period' means a period that begins within ten
26 days of the first day of the Governor's proclamation, the
27 President's declaration or designation by the Director of the
28 Department of Revenue, whichever occurs first, and that extends
29 for a period of sixty calendar days after the end of the declared
30 disaster or emergency period, or any longer period authorized by
31 the designated state official or agency.

32 (7) 'Disaster or emergency related work' means repairing,
33 renovating, installing, building, rendering services or other
34 business activities that relate to infrastructure that has been
35 damaged, impaired, or destroyed by the event precipitating the
36 declared state disaster or emergency.

37 (B)(1)(a) An out-of-state business that performs disaster or
38 emergency related work within this State related to a declared state
39 disaster or emergency during a disaster period must not be
40 considered to have established a level of presence that would
41 require that business to register, file, and remit state or local taxes
42 or that would require that business or its out-of-state employees to
43 be subject to any state licensing or registration requirements or any

1 combination of these actions. Except as provided in subsection
2 (B)(1)(b), this exemption includes all state or local business
3 licensing or registration requirements or state and local taxes or
4 fees including, but not limited to, unemployment insurance, state
5 or local occupational licensing fees, sales and use tax, or property
6 tax on equipment used or consumed during the disaster period, and
7 includes South Carolina Public Service Commission and Secretary
8 of State licensing and regulatory requirements. For purposes of a
9 state or local tax on or measured by, in whole or in part, net or
10 gross income or receipts, all activity of the out-of-state business
11 resulting from its performance of disaster or emergency related
12 work within this State related to a declared state disaster or
13 emergency during a disaster period, must be disregarded with
14 respect to any filing requirements for that tax including the filing
15 required for a unitary or combined group of which the out-of-state
16 business may be a part.

17 (b) An out-of-state employee is not considered to have
18 established residency or a presence in the State that would require
19 that person or that person's employer to file and pay income taxes
20 or to be subjected to tax withholdings or to file and pay any other
21 state or local tax or fee resulting from his performance of disaster
22 or emergency related work within this State related to a declared
23 state disaster or emergency during a disaster period. This includes
24 any related state or local employer withholding and remittance
25 obligations.

26 (2) Out-of-state businesses and out-of-state employees are
27 not exempted by this section from transaction taxes and fees
28 including, but not limited to, fuel taxes and fuel user fees or sales
29 and use taxes on materials or services subject to sales and use tax,
30 accommodations taxes, car rental taxes or fees that the out-of-state
31 affiliated business or out-of-state employee purchases for use or
32 consumption in this State during the disaster period, unless the
33 taxes or fees are otherwise exempted during a disaster period.

34 (3) An out-of-state business or out-of-state employee that
35 remains in the State after the disaster period becomes subject to the
36 state's normal standards for establishing presence, residency or
37 doing business in this State and the resulting requirements.

38 (C)(1)(a) The out-of-state business that enters this State upon
39 request, shall provide to the Department of Revenue a notification
40 statement that it is in this State for purposes of responding to the
41 disaster or emergency, which statement must include the business'
42 name, state of domicile, principal business address, federal tax
43 identification number, date of entry, and contact information.

1 (b) A registered business in this State, upon request, shall
2 provide the information required in item (1)(a) of this subsection
3 for an affiliate that enters this State that is an out-of-state business.
4 The notification also must include contact information for the
5 registered business in this State.

6 (2) An out-of-state business or an out-of-state employee that
7 remains in this State after the disaster period shall notify the
8 Department of Revenue and shall comply with state and local
9 registration, licensing, and filing requirements that ensue as a
10 result of establishing the requisite business presence or residency
11 in this State.”

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13 SECTION 2. This act takes effect upon approval by the Governor.

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