

# South Carolina Board of Economic Advisors

## Statement of Estimated State Revenue Impact (Section 2-7-71)

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**Date:** April 1, 2009      **Bill Number:** H.3722 (as amended by Ways & Means 3/26/23/09)

**Author:** Kirsh and White      **Committee Requesting Impact:** Ways and Means

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### **Bill Summary**

A bill to amend the Code of Laws of South Carolina, 1976, by adding Section 12-6-1145 so as to provide for determination of treatment of gains and losses apportioned to this State by the Internal Revenue Code standards; by adding Section 12-36-2575 so as to provide for filing of a return for each sales or use tax liability period even if no tax liability accrues for that period; to amend Section 12-4-320, as amended, relating to powers and duties of the Department of Revenue, so as to provide for adoption of federal relief for certain adversely affected taxpayers; to amend Section 12-6-590, as amended, relating to treatment of "S" corporations for tax purposes, so as to include additional references to the Internal Revenue Code for similar state treatment; to amend Section 12-6-2250, as amended, relating to the apportionment of income derived by a taxpayer to the taxpayer's conduct of business in this state, so as to change the word "allocated" to "apportioned"; to amend Section 12-6-2295, relating to inclusions and exclusions in connection with the terms "sales" and "gross receipts" as used in the apportionment of income to this state for state income tax purposes, so as to further specify rental and sales income from tangible and intangible, real and personal property in the ordinary course of the taxpayer's trade or business; to amend Section 12-6-3360, as amended, relating to the job tax credit against the state income tax, so as to delete a reference to general contractors in connection with the term "corporate office"; to amend Section 12-6-3376, relating to a credit against the state income tax for the purchase or lease of a plug-in hybrid vehicle, so as to require that the credit be the first claimed for that vehicle, to provide for regulations promulgated by the State Energy Office, to further provide for claiming the capped credit, and to provide for the effect of a repeal of the caps on the credit; to amend Section 12-6-3377, relating to the alternative motor vehicle fuel credit against the state income tax, so as to further provide for the calculation of the credit for business use and to delete a provision deeming the federal tax treatment of the alternative fuel credit to be permanent; to amend Section 12-6-3535, as amended, relating to a credit against the state income tax for rehabilitation of a historic structure, so as to include a credit against the corporate license fees; to amend Section 12-6-3550, as amended, relating to the voluntary cleanup income tax credit, so as to clarify that the credit is one against the state income tax; to amend Section 12-6-3585, as amended, relating to the industry partnership fund credit against state taxes, so as to allow the credit to be used against the taxpayer's applicable state income tax, bank tax, insurance premium tax, or license fee liability; to amend Section 12-6-3610, as amended, relating to income tax credit for property used for distribution or dispensing of renewable fuel, so as to delete certain transitional provisions; to amend Section 12-6-3630, relating to a credit against certain state taxes for a contribution to the South Carolina Hydrogen Infrastructure Development Fund, so as to further provide for claiming the credit; to amend Section 12-8-1530, relating to quarterly returns of withheld tax, so as to require returns even in periods when no tax has been withheld; to amend Section 12-8-1550, relating to statements required to be filed with the Department of Revenue, so as to provide for prescription by the department of either electronic or magnetic media method for submission of certain information; to amend Section 12-10-80, as amended, relating to the job development tax credit, so as to make technical corrections and add a cross reference; to amend Section 12-20-100, relating to license tax on utilities and electric cooperatives, so as to make technical changes; to amend Section 12-21-2575, relating to methods of accounting for admissions other than tickets, so as to provide that the tickets be collected and retained to account for admissions; to amend Section 12-36-910, as amended, relating to the five percent sales tax on the proceeds of the sale of tangible personal property, so as to delete a redundancy as to the tax on proceeds from the sale of a warranty, maintenance, or similar contract for tangible personal property; to amend Section 12-36-2120, as amended, relating to exemptions from the state's sales tax, so as to specify notification requirements for claiming the exemption on the construction materials used in certain single manufacturing and distribution facilities and to provide for assessment of any tax due, to specify that the exemption in connection with the sale of currency applies to currency that is legal tender, and to clarify the exemption as to durable medical equipment and related supplies; to amend Section 12-37-90, relating to duties of a full-time county assessor, so as to delete the authority of the Department of Revenue to alter a value of real property as set by the assessor; to amend Section 12-37-220, relating to property tax exemptions, so as to provide for exemption of the real property

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of defined tax exempt organizations and to correct a cross reference; to amend Section 12-44-30, as amended, relating to definitions for purposes of the Fee In Lieu Of Tax Simplification Act, so as to correct a cross reference in the definition of "sponsor"; to amend Section 12-54-70, as amended, relating to extension of time for filing returns or paying tax, so as to further define the length of the extension; to amend Section 12-54-85, as amended, relating to time limitation for assessment of taxes or fees by the Department of Revenue, so as to provide for the instance of a taxpayer lacking a valid business purpose; to amend Section 12-54-240, as amended, relating to disclosure of records and reports filed with the Department of Revenue, so as to require that the disclosure must be willful to give rise to the penalties; to amend Section 12-63-20, as amended, relating to the Energy Freedom And Rural Development Act, so as to define "biodiesel" for that purpose; to amend Section 30-2-320, relating to disclosure of identifying information in connection with public records, and Section 37-20-180, relating to disclosure of identifying information in connection with publication of a Social Security number, both so as to allow disclosure by and to the Department of Revenue for the purpose of carrying out its duties and responsibilities; to amend Section 44-43-1360, as amended, relating to administration of Donate Life South Carolina, so as to correct a cross reference; and to repeal Section 12-20-175, relating to reduction of license fees due to tax credits and Section 12-36-30, relating to the definition of "person" for purposes of the sales and use tax.

### **REVENUE IMPACT<sup>1/</sup>**

This bill, as amended by the Ways and Means Committee would reduce sales tax collections by \$480,000 in FY 2009-10. Of this amount, General Fund sales and use tax would be reduced by \$320,000, EIA funds by \$80,000 and Homestead Exemption funds by \$80,000 in FY2009-10. In the second and third years, sales and use tax would be reduced by an additional \$240,000 in FY2010-11 and FY2011-12, respectively. Of this amount, General Fund sales and use tax would be reduced by \$160,000, EIA funds by \$40,000 and Homestead Exemption funds by \$40,000 in FY2010-11 and FY2011-12, respectively. The remainder of this fiscal impact provides a detailed analysis of the bill Sections that are expected to impact revenues. Any Sections of the bill not specifically addressed below are not expected to have an impact on state or local revenues.

### **Explanation of Amendments (March 26, 2009) – By the House Ways and Means Committee**

Amendment #1 would add an appropriately numbered item to Section 12-36-2120 to exempt sales and use tax on the purchase of machinery and equipment, including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service after July 2, 2009. The non-profit facility would be used principally for the researching and testing of the impact of natural disasters such as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial and agricultural buildings. To qualify for the sales and use tax exemption, the non-profit organization must invest at least \$20,000,000 in real or personal property in this state over a three year period. There is at least one entity that has announced it is proceeding on a project in South Carolina that will qualify for this sale tax exemption. The project will focus its research on mitigating insurance losses due to catastrophic events by testing the effects of the natural hazards of wind, fire, flood, earthquake, and hail on architectural models. According to the entity's website, the facility expects to invest \$25,000,000 for a research campus facility and an additional \$15,000,000 to cover maintenance, repairs, and to help defray annual infrastructure-related costs, such as access to power. When fully operational, the project expects to employ approximately twenty employees. We expect that one-half of the \$40,000,000 investment will occur in the first year of operation with the remaining investment equally divided between the subsequent two years. Based upon the Board of Economic Advisors' cost-benefit model methodology, capital investment project expenditures typically are divided as 60 percent for labor expenses and 40 percent for materials and equipment

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expenditures. Multiplying a capital investment of \$20,000,000 in the first year by 40 percent and applying a sales and use tax rate of six percent yields an estimated \$480,000 in FY2009-10 in sales and use taxes that would be collected from this project in the absence of this amendment. Of this amount, General Fund sales and use tax would be reduced by \$320,000, EIA funds by \$80,000 and Homestead Exemption funds by \$80,000 in FY2009-10. In the second and third years, sales and use tax would be reduced by an additional \$240,000 in FY2010-11 and FY2011-12, respectively. Of this amount, General Fund sales and use tax would be reduced by \$160,000, EIA funds by \$40,000 and Homestead Exemption funds by \$40,000 in FY2010-11 and FY2011-12, respectively.

### **Explanation of the Bill filed March 24, 2009**

This bill is not expected to impact state or local revenues.

/s/WILLIAM C. GILLESPIE  
William C. Gillespie, Ph.D.  
Chief Economist

**Analyst:** Ball, DiBiase, Jolliff, Gibson, Martin, and Shuford

<sup>1/</sup> This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact, or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.