HB05-1050

Colorado Legislative Council Staff

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 05-0058	**Date:**	January 10, 2005
Prime Sponsor(s):	Rep. Garcia	**Bill Status:**	House Finance
		Fiscal Analyst:	Chris Ward (303-866-5834)

TITLE: CONCERNING THE ESTABLISHMENT OF A PROGRAM THAT ALLOWS CERTAIN EMPLOYERS TO RETAIN A PERCENTAGE OF THE WAGES WITHHELD FROM THEIR EMPLOYEES FOR STATE INCOME TAX PURPOSES AS AN INCENTIVE FOR CREATING JOB GROWTH.

Fiscal Impact Summary	FY 2005/2006	FY 2006/2007
State Revenues General Fund	Revenue Reduction (See State Revenue Section)	
State Expenditures General Fund	$84,661 *	$1,820
FTE Position Change	0.9 FTE	0.0 FTE
Other State Impact: TABOR Impact		
Effective Date: August 10, 2005, unless a referendum petition is filed.		
Appropriation Summary for FY 2005/2006: Department of Revenue - $84,661 and 0.9 FTE - General Fund *		
Local Government Impact: The bill could generate new or increased business investment in local communities. Also, businesses may claim an additional incentive if affected counties and municipalities contribute 10 percent of the business' cost for certain public infrastructure projects.		

** This amount includes $82,841 in computer programming costs that may also be included in the Long Bill.*

Summary of Legislation

The bill establishes an incentive for economic development by allowing certain employers to retain a portion of the state income taxes they withhold from their employees' pay. To qualify for the incentive, an employer must be engaged in a "strategic project" that will generate more in state revenue than the value of the incentive within a fiscal year. A strategic project entitles an employer to retain 50 percent of the state income taxes withheld from employees hired exclusively for the project. Once qualified, an employer can keep the remaining 50 percent, as long as an amount equal to the additional incentive is spent on a public infrastructure project and certain other conditions are met.

To qualify for the 50 percent incentive, an employer must obtain an affidavit each year from an economic research organization verifying that the project qualifies as a strategic project. An

additional affidavit is necessary to qualify for the 100% incentive. The state's Office of Economic Development would be responsible for certifying economic research organizations and approving economic models to be used by the organization. The bill allows certified economic research organizations to charge a fee for such affidavits.

The incentive program starts with taxes withheld on or after January 1, 2006. The program is repealed June 30, 2012, unless it is continued or reestablished by the General Assembly. State withholding taxes are submitted to the state and counted against the employee's income tax liability. Under the bill, employees would be held harmless and the amount retained by an employer would still count as having been paid by the employee.

State Revenues

Under current law, employers must withhold a portion of each employee's wages for state income tax purposes and forward these moneys to the state. This bill allows employers to retain 50 percent of these tax payments for employees hired exclusively for a strategic project. An employer may retain 100 percent if one-half of the incentive is spent on a public infrastructure project and certain other conditions are met.

The bill will increase state revenues, if the incentive program causes new business investment. But, to the extent that incentives are offered to a business that would have made the investment anyway, without the incentive, state revenues will be reduced from the current projected level. The bill defines a strategic project as one in which a business' investment will generate a state revenue gain in the same year as the withholding. However, the bill does not define how the gain is measured (such as an increase in a business' tax payments from the prior year, or an increase in overall state tax collections from the prior year). In addition, the incentive does not appear to be sufficiently limited to new businesses or new employees and existing Colorado businesses in certain segments of the economy may qualify, especially if the employees work under contract on a project-by-project basis. Some economic segments that may lend themselves to the requirements set forth in the bill include utilities, heavy and civil engineering construction, computer and electronic manufacturing, telecommunications, and waste management and remediation services.

As introduced, the bill is expected to reduce state income tax revenues, although the actual amount of the reduction has not been estimated. Some data indicate that the General Fund revenue reduction could range between $30 and $100 million. The number of strategic projects that would qualify a firm under the bill for tax incentives is unknown, but the Department of Revenue has indicated that the bill could affect as many as 4,860 taxpayer accounts. Qualified employers would be entitled to retain the following amounts under the 50 percent incentive, assuming zero exemptions under the current state withholding tables:

$678 for an employee paid $35,000 in wages;
$1,008 for an employee paid $50,000 in wages;
$2,173 for an employee paid $100,000 in wages;

State Expenditures

The bill is estimated to cost **$84,661 in FY 2005-06** and $1,820 per year thereafter. These costs, which would be a General Fund expense, are described below.

To ensure an accurate accounting of withholding taxes retained by employers under the bill, the Department of Revenue would need to establish, maintain, and periodically update a database linked to the income tax system. This system would cost an estimated $82,841 for 1,810 hours of computer programming, which is equivalent to 0.9 FTE in FY 2005-06. Computer programming is paid at an hourly rate of $45.52 and has traditionally been paid through an ongoing appropriation in the Long Bill. If sufficient moneys are provided in the FY 2005-06 Long Bill, no additional appropriation for the computer programming required by this bill would be necessary. Data entry costs, which are ongoing, are expected to total $1,820 per year beginning in FY 2005-06.

It is assumed that any work required of the Office of Economic Development, such as approving economic models and certifying economic research organizations, would be absorbed within the agency's existing budget.

Other State Impacts

This bill will reduce state revenues and the amount required to be refunded to taxpayers under TABOR in surplus-revenue years. In years when state revenues do not reach the TABOR limit, however, the bill will permanently reduce the state's overall revenue limit. The state will benefit from any public infrastructure projects paid for by private businesses.

Local Government Impact

The bill requires counties and municipalities to contribute 10 percent of the employer's cost of a public infrastructure project, in order for the employer to be eligible to retain 100 percent of withholding taxes for employees working exclusively on the project. This contribution level reflects the combined total amount to be provided by all counties and municipalities in which the project occurs. Local communities should benefit from public infrastructure projects paid for by private businesses, as well as any new jobs or new or increased business investment resulting from the bill.

State Appropriations

This fiscal note implies that the Department of Revenue would require a General Fund appropriation of $84,661 and 0.9 FTE for FY 2005-06. However, if sufficient computer programming resources are provided in the FY 2005-06 Long Bill, the department's direct appropriation requirement would be reduced to $1,820 in FY 2005-06.

Departments Contacted

Governor Legislative Council Staff Revenue State Auditor

Omissions and Technical or Mechanical Defects

The bill establishes an incentive program that begins with income tax years beginning on or after January 1, 2006 and expires June 30, 2012. Given this expiration date, it is unclear how the program would affect the 2012 income tax year.