

**DEPARTMENT OF TAXATION  
2010 Fiscal Impact Statement**

1. **Patron** Richard P. Bell

2. **Bill Number** HB 94

3. **Committee** House Finance

**House of Origin:**

**Introduced**

**Substitute**

**Engrossed**

4. **Title** Corporate Income Tax; Small Business  
Reduced Rate

**Second House:**

**In Committee**

**Substitute**

**Enrolled**

5. **Summary/Purpose:**

This bill would reduce the corporate income tax rate by one percent for small businesses that increase the number of their employees by a minimum of five percent over the number of employees in the immediately preceding year. This bill would also provide that the one percent tax rate reduction would be allowed for no more than three taxable years.

The tax rate reduction would be effective for taxable years beginning on or after January 1, 2010.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

## Revenue Impact

This bill would result in an unknown loss in General Fund revenue beginning in FY 2011. Based on data from the Quarterly Census of Employment and Wages (2008, Quarter 1), there were 220,936 establishments in Virginia that have fewer than 250 employees. However, it is not possible to identify how many of these establishments meet the other requirements to be a small business or the number that are subject to the Virginia corporate income tax. Businesses that are organized as S-corporations, LLCs, LLPs, partnerships, or sole proprietorships are not subject to the corporate income tax and would not qualify for the proposed reduced tax rate.

In order to qualify for the reduction, a business with 20 or fewer employees would need to add one employee in a given year. Employers with more than 200 employees would need to add ten to eleven employees to qualify. The bill does not specify any minimum employment level for the new employees.

### **9. Specific agency or political subdivisions affected:**

Department of Taxation

### **10. Technical amendment necessary: No.**

### **11. Other comments:**

#### Federal Law

According to the Small Business Administration (“SBA”), a small business is defined as a business establishment or enterprise that is organized for profit, with a place of business in the United States, and which operates primarily within the United States or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor. Further, the business establishment or enterprise cannot be dominant in its field, on a national basis. Finally, the business establishment or enterprise must meet the numerical small business size standard for its industry.

The SBA has established a size standard for most industries in the U.S. economy. The most common size standards are as follow:

- 500 employees for most manufacturing and mining industries
- 100 employees for all wholesale trade industries
- \$6.5 million for most retail and service industries
- \$31 million for most general & heavy construction industries
- \$13 million for all special trade contractors
- \$0.75 million for most agricultural industries

About one-fourth of industries have a size standard that is different from these levels. They vary from \$0.75 million to \$32.5 million for size standards based on average annual revenues and from 100 to 1500 employees for size standards based on number of employees.

### Current Virginia Law

Under *Va. Code* § 2.2-904.1, a “small business” is an independently owned and operated business that, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years.

### Proposed Legislation

This bill would reduce the corporate income tax rate from six percent to five percent for small businesses, as defined in *Va. Code* § 2.2-904.1, that increase the number of their employees by a minimum of five percent over the number of employees in the immediately preceding year. This bill would also provide that the one percent tax rate reduction would be allowed for no more than three taxable years.

This bill would require TAX to determine what information the small business would need to provide in order to receive the reduced tax rate.

Finally, this bill would provide that the Secretary of Finance and the Secretary of Commerce and Trade would be required to determine how many employees are added each year to small businesses with assistance from the Governor’s Opportunity Fund for Economic Development.

The tax rate reduction would be effective for taxable years beginning on or after January 1, 2010.

### Similar Legislation

**House Bill 119** would eliminate the corporate income tax for taxable years beginning on and after January 1, 2010.

**House Bill 860** would reduce the corporate income tax rate from 6.0% to 5.75%.

**House Bill 896 and Senate Bill 421** would reduce the corporate income tax rate from 6% to 5.4% for every small business.

**Senate Bill 325** would reduce the corporate income tax rate from six percent to three percent for the first three years after a business establishes a new office or operation or expands an existing office or operation in a nonattainment area under the Clear Air Act, for taxable years beginning on or after January 1, 2010. The capital investment must be \$250,000 or more and the tax reduction may not exceed that amount of the capital investment made by the corporation.

**Senate Bill 671** would eliminate Virginia’s corporate income tax for taxable years beginning on and after July 1, 2012.

cc : Secretary of Finance

Date: 1/24/2010 TLG  
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