Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 361 (as reported without amendment)
Senate Bill 362 (Substitute S-1 as reported)
Sponsor: Senator Darwin L. Booher
Committee: Finance

CONTENT

Senate Bill 361 would amend Chapter 13 of the Income Tax Act, which imposes a franchise tax on financial institutions, to do the following:

-- Provide that a financial institution's tax base would be the total equity capital of the financial institution or top-tiered parent entity, in the case of a unitary business group of financial institutions, subject to several deductions.
-- Define "total equity capital" and "top-tiered parent entity".
-- Require the tax base to be determined as of the close of the tax year, rather than based on a five-year average.
-- Specify that, if a United States person included in a unitary business group of financial institutions or a financial institution combined return were subject to the Corporate Income Tax or the tax on insurance companies, any business income or equity capital attributable to that person would have to be eliminated from the total equity capital of the unitary business group, and any sales or gross business attributable to that person would have to be eliminated from the apportionment formula under Chapter 13.

Senate Bill 362 (S-1) would amend Chapter 13 of the Income Tax Act to revise the apportionment formula for a financial institution with respect to gross business attributable to the foreign business of a person that was a foreign operating entity or a foreign person or attributable to operations outside of the United States, and for a unitary business group of financial institutions that acquired or disposed of members during the tax year.

The bills would be effective for tax years beginning after December 31, 2017.

Each bill states, "The provisions of section 651 of the income tax act…as amended by this amendatory act, are curative and intended to clarify existing law and accurately reflect the interpretation and application of those provisions in accordance with the notice to taxpayers dated November 21, 2016, regarding 5-year averaging calculation of net equity capital for financial institutions." (Senate Bill 361 would amend Section 651, which contains definitions for Chapter 13.)

MCL 206.651 & 206.655 (S.B. 361)
206.653 & 206.657 (S.B. 362)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would increase the volatility of General Fund revenue--meaning that in some years the State would receive more than under current law and in other years it likely would receive less. However, over the long run, one proposed change would increase revenue by an unknown, and likely minimal, amount.

Revenue volatility would be increased because the bills would move calculation of the tax base from a five-year average to a single-year value. By using an average, the calculation creates a relatively stable tax base under current law, with "low years" not bringing the tax base down by as much as they would otherwise, and "good years" not bringing it up by as much as they would otherwise. By switching to a single-year tax base, the bills generally would result in the General Fund receiving more revenue than under current law when financial conditions for banks are improving, and less when conditions are declining. Over the long run, the change would not likely alter the total revenue received by the State.

Date Completed: 11-14-17 Fiscal Analyst: David Zin