

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: Senate Bill 481 (First Edition)

SHORT TITLE: Providing Access To Entrepreneurs/Sm Business.

SPONSOR(S): Senators Barringer, Hise, and Gunn

FISCAL IMPACT					
(\$ in thousands)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Estimate Available					
State Impact	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
General Fund Revenues:					
General Fund Expenditures:	\$66.8	\$66.8	\$66.8	\$66.8	\$66.8
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:	1.0	1.0	1.0	1.0	1.0
NET STATE IMPACT	(\$66.8)	(\$66.8)	(\$66.8)	(\$66.8)	(\$66.8)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
Secretary of State					
EFFECTIVE DATE: When the bill becomes law					
TECHNICAL CONSIDERATIONS:					
None					

BILL SUMMARY:

This bill enacts new G.S. 78A-17.1 to create the "Invest NC exemption." Provides that except as otherwise provided in G.S. Chapter 78A, an offer or a sale of security by an issuer is exempt from the provisions of G.S. 78A-24 (registration requirements for securities) and G.S. 78A-49(d) (rules, forms, orders and hearings, governing registration requirements for securities) if it is conducted according to the specified requirements.

Adds a new subdivision (20) to G.S. 78A-17 to provide that any offer or sale of a security by an issuer, conducted in accordance with G.S. 78A-17.1, is exempt from the provisions of G.S. 78A-24 and G.S. 78A-49(d). Specifies the 13 criteria to be met to make an offer or sale of a security by an issuer qualify for the exemption under new G.S. 78A-17.1. This section sets a cap on the cash and other consideration received for all sales of securities under G.S. 78A-17.1, delineates rules and procedures governing an offer of sale of a security made through an Internet web site, and sets out indexing, reporting, and fee requirements.

Section 4 directs the Secretary of State to adopt rules to implement the provisions of this act within 12 months of the effective date of this act. Specifies the procedure to which the Secretary is to adhere in adopting those rules. Provides that an adopted rule under this section becomes effective

on the first day of the month following the month that the Secretary adopts and submits the rule to the Codifier of Rules to enter into the North Carolina Administrative Code. This section becomes effective when this act becomes law and expires 12 months after that date. Any rule adopted more than 12 months after the effective date of this act shall comply with the requirements of Article 2A of G.S. Chapter 150B. This section becomes effective 12 months after the effective date of this act.

The remainder of this act is effective when the act becomes law.

ASSUMPTIONS AND METHODOLOGY:

Enacting crowdfunding legislation will create a new responsibility for the Secretary of State's Securities Division. This division will be responsible for overseeing the security offerings made under the crowdfunding exemption. One Financial Investigator I position, salary of \$50,000 and total cost of \$66,808, should be sufficient to handle the increased responsibilities of this legislation. The rulemaking authority granted to the Secretary of State in Section 4 of the bill will create the bulk of the work for the new position. The other duties of the position will be to ensure that the applicants follow state and federal rules and investigate offerings for the potential of fraud.

It is difficult to predict the workload and fee revenue the crowdfunding exemption will create. Georgia and Kansas passed similar crowdfunding exemptions and few companies took advantage of the new law. In Kansas, only six companies used the exemption in its first two years. In Georgia, two years after the exemption passed only six companies took advantage of the exemption in 2013. The Secretary of State's office would need to receive applications and the \$150 filing fee from 446 companies to cover the cost of the one position. It is unlikely that North Carolina would see 446 new companies per year.

One possibility to decrease administrative costs would be to create the Financial Investigator I position as a time-limited position for one year. The General Assembly could reevaluate the need for the position during the next budget cycle either absorbing the workload into existing positions or making the Financial Investigator I position permanent.

SOURCES OF DATA: Secretary of State, Georgia, Kansas, Bloomberg News

TECHNICAL CONSIDERATIONS: None

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