SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2484

SPONSOR: Senator Alexander

SUBJECT: Retaliatory Insurance Financial Exactions

DATE: April 7, 2003 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Deffenbaugh	Deffenbaugh	BI	Favorable
2.			FT	
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

The bill reduces the retaliatory tax paid by "foreign" insurers (Florida authorized insurers that are formed under the laws of another state) which have salaried employees in Florida. The calculation of the retaliatory tax would be changed, so that none of the salary credit that the insurer deducts from its premium tax in Florida would be used in calculating its retaliatory tax. Currently, only 80 percent of the salary credit is not considered in calculating the retaliatory tax, effectively requiring foreign insurers to pay about 20 percent of the credit as part of its retaliatory tax. Under the bill, foreign insurers would be more likely to receive the full value of their salary credit from the premium tax, and no longer be required to pay a portion of it as part of the retaliatory tax.

The Revenue Estimating Conference estimates that the bill will reduce General Revenue for FY 2003-04 by an annualized amount of $3.7 million. On a cash basis, General Revenue would be reduced by $1.9 million for FY 2003-04 and $3.9 million for FY 2004-05.

This bill substantially amends section 624.5091 of the Florida Statutes.

II. Present Situation:

Insurance Premium Tax (and Credits)

Authorized insurance companies (issued a certificate of authority in Florida) are required to pay a premium tax equal to 1.75 percent of the gross premiums for life and health insurance policies covering state residents and on all other types of polices (property, casualty, and surety insurance) covering property, subjects, or risks located, resident, or to be performed in Florida (s. 624.509, F.S.).

Insurers are permitted to take various credits against their premium tax, including the amount of any corporate income tax imposed under chapter 220, the emergency excise tax imposed under chapter 221, F.S. Insurers are also permitted to take a salary credit equal to 15 percent of the salaries the insurer paid to employees located or based within Florida. However the total of these income tax, excise tax, and salary credits may not exceed 65 percent of the tax due after deducting the municipal police and fire excise taxes paid by the insurer under ss. 175.101 and 185.08, F.S., and the assessment made for the Workers' Compensation Administration Trust Fund, under s. 440.51, F.S.

Retaliatory Tax

"Foreign" insurers, which are Florida authorized insurers that are "domiciled" or formed under the laws of another state, must pay a retaliatory tax in Florida, if their state of domicile imposes a premium tax greater than Florida's premium tax (s. 624.5091, F.S.). In general, the amount of the retaliatory tax a foreign insurer must pay is the difference between their domiciliary state's premium tax and Florida's premium tax. To calculate the retaliatory tax, the Department of Revenue compares the taxes the insurer would pay in its state of domicile (based on the Florida premium volume), to the premium tax the insurer pays in Florida. If the taxes are higher in the other state, Florida imposes a retaliatory tax equal to the difference.

However, the law specifies how certain fees and credits are to be used in calculating the retaliatory tax. The credits that are allowed against the premium tax are not necessarily used in calculating the retaliatory tax. For example, the current law provides that in calculating the retaliatory tax, 80 percent of the salary credit shall not be taken into consideration. In other words, this amount is ignored. Prior to 1989, 100 percent of the payroll credit was not taken into consideration; it was completely ignored. This had the effect of lowering the insurer's retaliatory tax by the full amount of the salary credit, because the Florida premium tax without the salary credit (a greater amount) was used as the amount compared the domiciliary state's premium tax. In 1989, the law was amended to provide that 80 percent, rather than 100 percent of the payroll credit shall not be taken into consideration for calculating the retaliatory tax (ch. 89-167, L.O.F.) This had the effect of increasing the retaliatory tax for foreign insurers that have employees in Florida. It also increased retaliatory tax revenues overall, which was the apparent purpose.

The 1989 law also limited the portion of retaliatory taxes paid into the Insurance Commissioner's Regulatory Trust Fund at $5.2 million for 1989, adjusted annually thereafter for growths in retaliatory tax collections or 10 percent, whichever is less, with the remainder to be deposited in the General Revenue Fund).

III. Effect of Proposed Changes:

The bill revises the calculation of the retaliatory tax, to provide that none of the salary credit deducted from an insurer's premium tax shall be taken into consideration in computing the retaliatory tax. Said differently, 100 percent of the salary credit, rather than 80 percent as under current law, is *not* taken into consideration in calculating the retaliatory tax.

The bill has the effect of lowering the retaliatory tax for foreign insurers (domiciled in another state) which have salaried employees in Florida. Such insurers would be more likely to receive the full value of their salary credit taken from their premium tax, without being required to pay about 20 percent of the credit as part of their retaliatory tax. Consequently, the bill also has the effect of lowering retaliatory tax revenues to the state.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill reduces the retaliatory tax paid by foreign insurers which have salaried employees in Florida. Such insurers would be more likely to receive the full value of their salary credit from the premium tax, and no longer being required to pay about 20 percent of the this credit as part of the retaliatory tax.

B. Private Sector Impact:

See Tax/Fee Issues, above.

C. Government Sector Impact:

According to the Revenue Estimating Conference, the bill reduces General Revenue for FY 2003-04 by an annualized amount of $3.7 million. On a cash basis, General Revenue would be reduced by $1.9 million for FY 2003-04 and $3.9 million for FY 2004-05.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.