OLR Bill Analysis
sHB 7376 (as amended by House "A") *

AN ACT CONCERNING NEXUS PROVISIONS FOR CERTAIN DISASTER-RELATED OR EMERGENCY-RELATED WORK PERFORMED IN THE STATE.

SUMMARY

This bill establishes nexus rules (see BACKGROUND) for out-of-state businesses or employees who come to Connecticut to perform disaster- or emergency-related work on critical infrastructure during a disaster response period. Under the bill, regardless of existing tax laws, the businesses’ or employees’ operations or presence in the state to perform such work is not sufficient to require the business or employee to:

1. register with the state or any of its political subdivisions;

2. pay property or state taxes, other than applicable transaction taxes and fees (e.g., sales taxes, fuel taxes, and fees or charges on rental vehicles or machinery);

3. submit any tax filing to the state; or

4. be licensed by the state, as long as the business or employee is properly licensed to perform disaster- or emergency-related work under another state’s laws.

The bill requires any activities associated with disaster- or emergency-related work that are performed by an out-of-state business that is present or operating in the state solely to perform such work to be disregarded with respect to any filings required for income or gross receipts taxes, including a combined unitary return.

The bill also requires out-of-state businesses and registered businesses affiliated with them to provide, upon request by the secretary of the state (SOTS), certain information about the business in
a written statement.

Under the bill, out-of-state businesses and employees who remain in the state after the disaster response period are subject to all laws that provide standards to establish presence in the state (i.e., nexus rules) and must comply with any applicable law.

*House Amendment “A” (1) specifies that businesses may not be prevented from beginning disaster- or emergency-related work before providing a written statement and (2) makes a minor change related to the disregarding of disaster- or emergency-related work for tax purposes.

EFFECTIVE DATE: Upon passage

APPLICABILITY OF THE BILL’S NEXUS RULES

The bill’s nexus rules apply to out-of-state businesses and out-of-state employees who perform disaster-related or emergency-related work during a disaster response period.

Affected Businesses and Employees

Under the bill, an “out-of-state business” is a business entity that, in the income or tax year immediately preceding the state disaster or emergency, (1) was not registered with the state or any of its political subdivisions, (2) did not submit any tax filings to the state, and (3) did not derive income from state sources. The term includes business entities that were present or conducted operations in the state to perform disaster- or emergency-related work or are affiliated with a business registered in the state only by common ownership, but that otherwise satisfy the above requirements.

An “out-of-state employee” is an employee of an out-of-state business who does not work in the state, except for performing disaster- or emergency-related work during a disaster response period.

Disaster-Related or Emergency-Related Work

Under the bill, “disaster-related or emergency-related work” means repairing, renovating, installing, constructing, or rendering services to
critical infrastructure in the state that has been damaged, impaired, or destroyed by a disaster or emergency declared by the governor or the president (i.e., a “state disaster or emergency”). “Critical infrastructure” refers to real property and tangible personal property that is owned or used by a public service company or telecommunications company to generate, transmit, or distribute the company’s product or service in the state. It includes conduits, lines, fiber optic cables, poles, pipes, structures and equipment.

The bill applies only to work performed during a “disaster response period,” meaning the period beginning 10 days before the disaster’s or emergency’s proclamation or declaration and ending 60 days after its declared end.

WRITTEN STATEMENTS TO SOTS

The bill requires any out-of-state business that is present or operates in the state to perform disaster- or emergency-related work during a disaster response period to provide a written statement to SOTS upon request. The statement may be submitted electronically and must include the business’s name, domicile state, principal business address, telephone number, e-mail address, federal tax identification number, and date of entry into the state.

SOTS may also request a registered business that is affiliated with such an out-of-state business to provide a written statement that includes (1) the information listed above and (2) the registered business’s name, principal address, telephone number, and e-mail address. A “registered business” is a business that is registered with SOTS to do business in Connecticut before the disaster or emergency.

Under the bill, an out-of-state business that has received a request from SOTS for a written statement, or is an affiliate of a registered business that has received such a request, may not be prevented from beginning disaster- or emergency-related work in the state before providing the written statement.

BACKGROUND
**Tax Nexus Rules**

Tax nexus refers to the amount and type of activity that must be present before a person or business is subject to a state’s taxing authority. State law establishes rules for determining nexus, subject to federal constitutional restrictions.

For example, for the corporation business tax, any company that derives income from sources in Connecticut and that has a substantial economic presence within this state is liable for the tax, to the extent permitted by the U.S. Constitution, and must apportion its income according to applicable corporation business tax rules (CGS § 12-216a). Under state regulations, activity that subjects businesses to tax includes (1) performing or soliciting orders for services in the state and (2) having an employee, regardless of where the employee is based, repair or replace faulty or damaged goods or install or assemble the business’s product in the state (Conn. Agencies Regs. § 12-214-1).

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 50  Nay 0  (04/30/2019)