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Fiscal Note
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H.76 – An act relating to captive insurance

As recommended by the House Committee on Commerce and Economic Development to the Committee on Ways and Means: Draft 1.1

URL for the Bill:

https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Ways%20and%20Means/Bills/H.76/H.76~Sandy%20Bigglestone~%20Draft%201.1,%202-15-2023~2-17-2023.pdf

Bill Summary

This bill changes the percentage of the Captives Insurance Premium Tax that the Department of Finance Regulation (DFR) may retain annually from 11% to 13% to cover the operating expenses of the Captives Division. Additionally, the bill makes several housekeeping changes to the Captive Insurance regulatory statues.

Fiscal Impact

JFO estimates that this bill would not have a fiscal impact, only the timing of when funds flow to the General Fund will change.

Background and Details

Section 2 – Captive Premium Tax Allocation

Per 8 V.S.A. § 6014(h), 11% of the tax revenue collected on captive insurance and reinsurance premiums are transferred from the General Fund to the Department of Financial Regulation (DFR), Captive Insurance Regulatory and Supervision Fund, to cover the costs of regulating captive insurance companies. H.76 proposes to increase the percentage transferred to DFR from 11% to 13%. Changing the allocation will reduce the amount of the Captives Premium Tax that is directly deposited into the General Fund annually.

However, unlike most other departments with special fund balances at the end of a fiscal year, DFR is required to transfer the balance in the Captives Insurance Regulatory and Supervision Fund at the end of each fiscal year to the General Fund (8 V.S.A. § 6017(b)). So, while the initial transfer from the General Fund to DFR will increase, statutorily the funds will flow back to the General Fund at year end if there is a balance remaining in the fund at year end.

DFR is requesting this process change because for the last few years DFR has run a negative operating balance in the fund; the revenues have not kept up with annual operating costs. The Department has historically relied on the positive balances in the other DFR special funds (such as the Insurance Regulatory and Supervision Fund) to cover the deficit in the Captives Fund. The net effect of all these transfers does not change the amounts that are ultimately moved to the General Fund at year end.

In summary, the General fund pays for the annual operating deficit in the Captives Regulatory and Supervisory Fund regardless of the amount of the Captives Premium Tax allocated to DFR and the General Fund. The total cost of the Captives Division is either paid for through a reduction in the DFR year end fund balance transfer to the General Fund (current law) or by the transfer of additional premium tax to the Captives special fund (H.76 proposal). Either way, the net impact to the General Fund is the same.

Sections 1, 3-6

These sections of the bill are housekeeping in nature. There is no fiscal impact associated with these changes.

Section 7 - Effective dates:

The bill is effective on passage, meaning that the percent allocated to DFR may change in FY 2023, based on how this is written. To align with the budget FY 2023 and FY 2024 budget, the effective date for Section 2 should be updated to July 1, 2023.

Concluding Section

Changing the allocation will only change the timing of when funds flow to the General Fund, it will not impact the total dollars that ultimately transferred to the General Fund.

Appendix: Resources

- Department of Financial Regulation FY 2024 Budget Request (Page 26): https://ljfo.vermont.gov/assets/Uploads/eaf3e5d760/Vermont-Department-of-Financial-Regulationv4.pdf
- Banking and Insurance Statute – Captive Insurance Companies: https://legislature.vermont.gov/statutes/section/08/141/06014
- Captive Insurance Regulatory and Supervision Fund: https://legislature.vermont.gov/statutes/section/08/141/06017