

**LEGISLATIVE FISCAL OFFICE
Fiscal Note**



Fiscal Note On: **SB 241** SLS 22RS 437
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action: **w/ HSE FLOOR AMD**
 Proposed Amd.:
 Sub. Bill For.:

Date: June 2, 2022	10:23 AM	Author: ALLAIN
Dept./Agy.: Tax Commission		Analyst: Deborah Vivien
Subject: Allows non-cash alternatives for AVT payments under protest		

TAX/TAXATION EGF SEE FISC NOTE LF RV See Note Page 1 of 1
 Provides for alternatives in lieu of payment under protest for certain ad valorem taxes. (8/1/22)

Current law mandates that an ad valorem taxpayer make a payment under protest of the amount of taxes in dispute when filing a legality challenge with the Board of Tax Appeals or District Court. Filing an appeal of a Board of Review assessment with the Tax Commission concerning the correctness of the assessment does not require a payment under protest, though a taxpayer may still pay under protest. A payment under protest is held in escrow by the local tax collector until the dispute is resolved.

Proposed law clarifies that the Tax Commission will consider a taxpayer's appeal of a Board of Review assessment without payment under protest. Proposed law also allows the taxpayer to pledge a bond or other security (pledge, collateral assignment, lien, mortgage, factoring of accounts receivable or other asset encumbrances) in lieu of a cash payment under protest, the reasonableness of which is determined by the District Court or Board of Tax Appeals (BTA). The District Court or Board of Tax Appeals may order an additional payment under protest to reach reasonable security. Once an appeal of an LTC action to the BTA is successful for a person claiming a right to a refund or repayment of erroneously paid taxes for public service property, the LTC has no further appeals. Effective on 7/1/22 and for all cases pending BTA on 7/1/22.

EXPENDITURES	2022-23	2023-24	2024-25	2025-26	2026-27	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW					
Annual Total						

REVENUES	2022-23	2023-24	2024-25	2025-26	2026-27	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW					
Annual Total						

EXPENDITURE EXPLANATION

Any additional resources required by courts or local collectors for security compliance and validation or liquidation upon judgment are indeterminate. The responsibility would presumably fall upon the court in which the case is filed. There are no provisions for payment of these potential expenses in the bill. It is also indeterminate whether removing the cash requirement to proceed with a legality dispute will allow more taxpayers to dispute a tax bill instead of it reverting to tax sale, which could also impact the timing and amount of local revenue. No additional expenses are anticipated for the elimination of the LTC ability to appeal certain BTA decisions.

REVENUE EXPLANATION

The bill impacts the amount of cash payments under protest at the local level by allowing a bond or other security to be posted with the filing of a timely dispute with Tax Commission, Board of Tax Appeals or District Court, whether related to the assessment or amount of the tax. However, the bill states that disputes with the LA Tax Commission concerning the correctness of the tax will not require payment under protest or a security pledge.

Currently, payments under protest are paid in cash in the amount of the disputed tax and are held in escrow separate from local revenue by the tax collector. If the final determination affirms the tax liability, the funds are then deposited for use by the appropriate taxing authorities. Otherwise, the funds are returned to the taxpayer. This bill appears to continue to allow cash payments under protest in the same manner but also authorizes alternative payments to presumably be filed with the court, including bonds, pledge, collateral assignment, lien, mortgage, factoring of accounts receivable or other asset encumbrances.

The extent to which securities would require liquidation in order to satisfy a tax settlement could impact the timing of the dollars made available to local taxing authorities compared to cash payments under current law. Removing the cash requirement to proceed with a dispute may allow more taxpayers to challenge a tax bill instead of reverting to tax sale, which could also impact the timing and amount of local revenue.

House floor amendments eliminate the ability of LTC to appeal certain BTA decisions. To the extent certain cases that were found in favor of the taxpayer at BTA would be overturned on appeal under current law but will not under the proposed law, the state would presumably not collect these funds, which would be a reduction in revenue. However, there is no way to determine which cases would be overturned or the magnitude of the tax in question.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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