

**LEGISLATIVE FISCAL OFFICE**

**Fiscal Note**



Fiscal Note On: **SB 268** SLS 09RS 130

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

<b>Date:</b> June 4, 2009	8:39 AM	<b>Author:</b> DONAHUE
<b>Dept./Agy.:</b> Revenue		<b>Analyst:</b> Deborah Vivien
<b>Subject:</b> Changes tax payments requirements and legal fees		

TAX/SALES

EG INCREASE GF EX See Note

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Establishes an alternative remedy for taxpayers who have received a final notice of assessment of sales and use tax from any tax collector or tax authority. (gov sig)

Current law allows the Department of Revenue to hire outside attorneys on a contingency basis to litigate certain disputed sales tax payments and requires that the Department charge the tax debtor attorney's fees of 10% of taxes, penalties and interest.

Proposed law requires the Department of Revenue to pay the attorney's fees of 10% of taxes, penalties, and interest collected and removes the provision allowing the tax debtor to be billed.

Proposed law provides alternative remedies for taxpayers filing suit within 30 days of receipt of notice of final assessment who properly execute the alternative remedy of filing a rule to set bond or other security including a pledge, collateral assignment, lien, mortgage, or other encumbrance of assets for 125% of the disputed amount. The remedy allows no cash collection to be taken in connection with assessment of taxes, interest, and penalties subject to the taxpayer's suit until judgment is rendered.  
Effective upon governor's signature.

<b>EXPENDITURES</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

  

<b>REVENUES</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

The bill may have an impact on state and local governmental expenditures. Under the proposed legislation, the state will pay outside attorney's fees whereas those payments are currently paid by the tax debtor. Assuming 15 cases per year are referred to outside attorneys at a cost of \$215,000 per case, the state will pay \$3,225,000 in attorney's fees (15 cases \* \$215,000 fees per case). This amount will be funded by either state general fund (taxes) or self-generated revenue (penalties and interest). Through the use of outside counsel, the Department has collected approximately \$26 million per year over the last five years from these cases.

Under current law, tax collectors in local political subdivisions use authority granted to the Louisiana Department of Revenue (LDR) under R.S. 47:1512 to employ and compensate outside legal counsel in the collection of taxes. Similar decisions to those made at the state level concerning the payment of outside counsel will also be made at the local level for the collection of local sales and use tax, which could lead to additional local expenditures.

The bill's provisions relative to alternative taxpayer remedies will have no significant impact on state or local expenditures.

**REVENUE EXPLANATION**

Should the state lack sufficient funds to cover outside attorney's fees, this could work to decrease state and local revenue collections beyond the amounts specifically associated with cases litigated by outside counsel by deterring the pursuit of litigation involving disputed taxes. Through the use of outside counsel, the Department has collected approximately \$26 million per year over the last five years from these cases.

The bill's provisions relative to alternative taxpayer remedies will have no significant impact on state or local revenues.

Senate

Dual Referral Rules

House

- 13.5.1 >= \$500,000 Annual Fiscal Cost
- 13.5.2 >= \$500,000 Annual Tax or Fee Change

- 6.8(F) >= \$500,000 Annual Fiscal Cost
- 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

**Gregory V. Albrecht**  
**Chief Economist**