

**LEGISLATIVE FISCAL OFFICE**

**Fiscal Note**



Fiscal Note On: **SB 268** SLS 09RS 130  
 Bill Text Version: **REENGROSSED**  
 Opp. Chamb. Action: **w/ HSE COMM AMD**  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> June 20, 2009 3:44 PM	<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 RE1 INCREASE GF EX See Note Page 1 of 1

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 up to 10% of taxes, penalties, and interest at issue and removes the provision allowing the taxpayer to be billed. Local taxing authorities are allowed to continue billing the taxpayer at 10% of the amount at issue. 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. 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. However, the collector is permitted to file a reconventional demand against the taxpayer. The bill is effective upon governor's signature and will only impact cases referred on or after the date of signature.

EXPENDITURES	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>5 -YEAR TOTAL</u>
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<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>

REVENUES	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>5 -YEAR TOTAL</u>
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<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**

Under the proposed legislation, the state will pay outside attorney's fees for cases referred to outside counsel after the effective date of this bill whereas the taxpayer is currently liable for the attorney's fees. Under this legislation, the department will pay up to 10% of the amount at issue in attorney's fees, depending on work related to the case. 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 or self-generated revenue (penalties and interest).

Under this legislation, local taxing authorities are allowed to continue to bill the taxpayer at 10% of the amount at issue in matters of dispute in which an outside counsel is required.

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

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

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