LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 754** HLS 12RS 990
Bill Text Version: **REENGROSSED**
Opp. Chamb. Action: **W/ SEN FLOOR AMD**
Proposed Amd.:
Sub. Bill For.:

Date: May 22, 2012 1:00 PM
Author: ROBIDEAUX
Dept./Agy.: Economic Development/Revenue
Subject: State sales tax rebate for purchasing companies
Analyst: Deborah Vivien

TAX/TAX REBATES REF SEE FISC NOTE GF RV See Note

Authorizes state sales and use tax rebate contracts for certain businesses

Current law imposes a state sales tax of 4% of all tangible personal property. Proposed law provides for a rebate of some portion of state sales tax for procurement processing companies (PPCs) that generate transactions subject to state sales tax that presumably would not have otherwise occurred in the state. The rebate will be a negotiated portion of the sales tax associated with transactions of the PPC. The Department of Economic Development (LED) is to negotiate and sign the contract with the PPC, and the rebate will be calculated and paid by the Department of Revenue (LDR). Contract terms are up to 40 years (20 years initial, 20 year renewal). Rebates are to be paid from the collections of state sales tax generated by the operations of PPCs. A broad clawback provision is included in the bill. A purchasing company or affiliated entity which remits taxes may not claim a refund on a transaction if the PPC receives a rebate. The Department of Revenue may promulgate rules and retain administrative expenses from the associated sales taxes. See Page 2

EXPENDITURES	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$480,400	$358,000	$358,000	$358,000	$358,000	**$1,912,400**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$480,400**	**$358,000**	**$358,000**	**$358,000**	**$358,000**	**$1,912,400**

REVENUES	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**5 -YEAR TOTAL**
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total						

EXPENDITURE EXPLANATION

LED reports that the bill will not require additional resources as its role ends once the contract is negotiated. LDR must ensure that participating sales are truly new sales that would not otherwise be taxable in the state, and calculate and pay the rebates based on the agreement stipulated in the contract. Based on the number of firms involved and sales volumes suggested by proponents, LDR suggests resource needs of 5 new positions (4 tax auditors and a tax specialist costing $358,000) to evaluate and issue rebates for a large set of monthly transactions. Initial setup of an e-file system and data capture processes could cost approximately $122,000. The bill allows LDR to withhold administrative expenses from the associated sales tax proceeds.

REVENUE EXPLANATION

As explained by proponents, successful implementation of this bill is based on Procurement Processing Companies (PPC) acting as middlemen in transactions that occur between out-of-state parties to create a tax liability in Louisiana. Proponents and the bill state that these purchases are not to have otherwise occurred in the state for purposes of taxation. For instance, when a firm in Ohio buys an item from a firm in Florida, the PPC will obtain title to that item in Louisiana, creating a Louisiana sales tax liability on an item that may never enter the state (presumably this is a Louisiana taxable transaction). The final user (in Ohio) will pay Louisiana sales tax (through an affiliated Louisiana purchasing company, for an item purchased from a Florida supplier). The PPC will then obtain a rebate from Louisiana of a portion of the state sales tax on the transaction, per a contract negotiated with LED. Proponents anticipate a rebate of 80-85% of state sales tax with the state retaining 15-20%. The final user or affiliated purchasing company is prohibited from obtaining a refund from Louisiana of any sales tax for which the PPC receives a rebate. Presumably, to market the service, the PPC will share a portion of its rebate receipts with the final user or affiliated purchasing company. The final user can typically take a credit against their sales/use tax liability in their state for the Louisiana sales tax paid. Essentially, sales tax revenues are shifted from the states of the final users to the state of Louisiana. The magnitude of potentially affected sales and associated sales taxes is speculative, and no specific amounts are anticipated in this fiscal note (proponents have suggested several firms and large dollar transactions could be involved). It is not certain how many companies will execute contracts with LED as Procurement Processing Companies.

The bill also dedicates half the proceeds (net of LDR expenses) to the UAL debt payments in excess of scheduled amortization. It also creates the Specialized Educational Institutions Support Fund which will receive $27 million of the associated sales tax proceeds for the LSU AgCenter ($10M), Pennington Biomedical ($5M), Cancer Research Centers at LSUHSC/Tulane New Orleans ($5M) and Feist-Weiller Cancer Center of LSUHSC Shreveport ($5M) and Southern AgCenter ($2M) from the other half of the proceeds. These allocations shall not supplant state general fund support. If the full amount of these fixed amount dedications is not reached, they will all be reduced proportionately.

Senate — Dual Referral Rules — House

- [x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}
- [ ] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}
- [ ] 6.8(F)1 >= $500,000 Annual Fiscal Cost {S}
- [ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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CONTINUED EXPLANATION from page one:

Continued Explanation of the Bill
Of the remaining state portion, half will pay down UAL debt in addition to scheduled amortization. From the other half, $27 million is dedicated to the Specialized Educational Institutions Support Fund created by this bill with $10 M for LSU AgCenter, $5 M each for Pennington Biomedical Research Center, LA Cancer Research Center at LSUHSC New Orleans/Tulane, and the Feist-Weiller Cancer Center of LSUHSC Shreveport and $2 M for Southern University Ag. Research Center. These fixed dedication amounts will be reduced proportionately if half of the available collections fall short of fully funding them.

Continued Revenue Explanation of the Bill
Given the unusual nature of this proposal, certain concerns about the bill should be noted:
1) It is essential that the existing and growing baseline of sales taxed by the state not flow through a PPC and be eligible for a rebate. This could occur if the final purchasers are actually in-state firms, or possibly if in-state firms establish a purchasing affiliate. The Revenue Department is charged with this task, but how this will be accomplished over the long terms of the contracts is not clear.
2) It might be possible for firms currently operating in the state to form their own PPCs and purchasing company affiliates to receive rebates for their own existing Louisiana sales tax payments.
3) Much of the program will be governed by a contractual arrangement lasting as long as 40 years, negotiated by LED but with rebate payments made by LDR. Those arrangements are not likely to be known to the legislature in advance and are critical to the state fiscal success of the proposal.
4) Reciprocal agreements with other states may be affected, in that final purchasers may be crediting their liability in other states while sharing in a portion of the Louisiana tax rebated back to the PPC. The bill holds the state harmless against refund claims if other states require full sales tax payment.
5) With successful implementation, the program would be providing a competitive advantage to out-of-state firms that might ultimately compete with in- state firms; encouraging in-state firms to establish their own purchasing affiliates and PPC arrangements to participate in the program’s rebates with regard to their existing state sales taxes.

Senate	Dual Referral Rules	House
[x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		[ ] 6.8(F)1 >= $500,000 Annual Fiscal Cost {S}
[ ] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}		[ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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