LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 456** HLS 13RS 1012
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: May 10, 2013 7:59 AM
Author: ROBIDEAUX
Dept./Agy.: Revenue
Subject: Comprehensive Tax Amnesty
Analyst: Deborah Vivien

REVENUE DEPARTMENT EG INCREASE GF RV See Note
Establishes the Louisiana Tax Delinquency Amnesty Act of 2013

Proposed law provides a tax amnesty program with all net proceeds deposited to the state general fund. Amnesty will be allowed for taxes administered and collected by the Department of Revenue, except the motor fuel tax, that became due as early as July 1, 2001, which is the same start date as the FY 10 amnesty. The program shall be effective for up to 24 consecutive months between July 1, 2013 and December 31, 2015 (30 month period). Various other eligibility provisions apply. If approved in the first 12 month period, 100% of penalties and interest are waived, if approved during the second 12 month period, only 50% of penalties and interest are waived. The Department of Revenue retains amounts equivalent to the penalties waived under the program (a major self-generated funding source for the Department's operations) plus amounts for the costs of contractual information technology and program administration costs, and up to $250,000 for advertising expenses. Receipts will be transferred to the State General Fund. LDR may contract with an outside vendor for up to 10% of collections. Effective upon governor's signature and passage of ten other pieces of legislation.

EXPENDITURES	2013-14	2014-15	2015-16	2016-17	2017-18	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	INCREASE	$0	$0	$0	$0	**$0**
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		**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	2013-14	2014-15	2015-16	2016-17	2017-18	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	DECREASE	$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	$0	$0	$0	$0	$0	**$0**
Annual Total			**$0**	**$0**	**$0**	**$0**

EXPENDITURE EXPLANATION

If the program is handled largely in-house, the Department estimates costs of up to $2 million, including additional temporary hires, overtime for current personnel, information processing costs, and advertising. If large portions of the program are out-sourced and/or carried out in an expanded and/or expedited fashion, such as direct mail-outs to taxpayers, contracted return and payment processing, call center operations for taxpayer inquiries, and additional information technology services specifically for this program, costs could be as high as $5.4 million, or possibly more.

The FY 10 amnesty program cost $48.7 M due to the contract to administer the amnesty program for 10% of collections. It appears that a contract of 10% of collections is significantly overpriced. A fee closer to 1% may have been more appropriate under the 2010 amnesty program. However, the speed with which the program is required to be implemented may make it difficult for the department to negotiate a lower, more reasonable price.

REVENUE EXPLANATION

According to the Department of Revenue, the state has offered amnesty on five previous occasions, 1985, 1987, 1998, 2001, and 2009. The 1985 amnesty generated $1.2 million (382 taxpayers), 1987 $279,000 (77 taxpayers), 1998 $1.6 million (5,500 taxpayers), 2001 $193 million (30,166 taxpayers), and 2010 $482.7 million (40,000+ taxpayers). The earlier amnesty programs (1985, 1987, and 1998) were very restrictive as to eligible taxpayers, while the amnesties in 2001 and 2010 were much less restrictive, as is the amnesty proposed by this bill, by allowing all taxes collected by LDR to be eligible for amnesty, except the motor fuel tax. The department estimates that as many as 300,000 taxpayers may be eligible to participate, with $700 million available for collection. From this pool of eligibles, possibly 30,000 taxpayers may participate, generating $150 million - $175 million in collections. From whatever collections occur, the department will retain as self-generated revenue an amount equal to the penalties waived plus amounts necessary to administer the program.

The experience of states that have used outside private firms to assist with the program, including Louisiana, suggests that it is possible for more revenue than expected to be collected. However, amnesty programs are not typically offered in such short intervals. In addition, the 2009 amnesty required participants to abide by the LDR interpretation of the law with respect to issues resolved through amnesty for the 3 tax periods following the amnesty (2010, 2011, 2012). This works to reduce the pool of potential amnesty collections, especially since those tax periods immediately precede this bill's amnesty. Thus, the impact of this bill is uncertain. Any specific amounts expected to be collected would be speculative and no specific amount is recommended for purposes of this fiscal note. The bill provides a 24 month window for participation but provides an incentive to participate in the first 12 months by waiving 100% of penalty and interest, then only 50% if participating in the second 12 months. This will likely work to front-load the receipts (presumably mostly in FY14), but it is possible that some receipts are received in the second 12 month period (FY15 and even possibly FY16).

Senate — Dual Referral Rules
- [x] 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) >= $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 Revenue Explanation

It is likely though that collections in subsequent years will be lower due to 1) the acceleration of collections due to an amnesty opportunity and 2) the quick recurrence of the amnesty program provides an added incentive to avoid tax payment in anticipation of repeated amnesty opportunities.

In the case of previous amnesty programs, upon conclusion of the program, the Revenue Estimating Conference (REC) has recognized all amounts collected as non-recurring revenue (other than the receipts allocated to be retained by the Department to fund its subsequent operations, and those allocated to purposes constitutionally approved for the use of non-recurring revenue - Budget Stabilization Fund and Coastal Protection Fund in 2009). Under the State Constitution, such a designation reserves 25% of the designation for the Budget Stabilization Fund (if this fund is not already filled to its maximum) and the rest to the capital outlay and debt repayment options provided by the Constitution. However, this bill directs the entire amount to be deposited through the Bond Security and Redemption Fund; then the State General Fund, and, presumably, would be available to support other allowable uses of non-recurring revenue.

However, no previous amnesties have been structured with such a long open window for participation (24 months) over such a long period of time (30 months). It can not be predicted how the REC would treat the results of such a program.

Tax amnesty programs may generate some small amount of revenue from taxpayers whose liability is unknown to the department, but these programs largely result in revenue from taxpayers whose liability is actually known to the department. Their essential effect is to shift collections forward in time. Revenue collections are greater than otherwise in the year of the amnesty but then likely to be less than they would otherwise be in subsequent periods. In addition, amnesty programs permanently forego collections of penalties, interest, and fees that would otherwise be collected. Foregone interest is a loss to the state general fund, while foregone penalties and fees is a loss to self-generated revenue utilized by the department for its operations. To prevent this effect on the department's resources, the bill requires the department to retain from whatever amnesty collections are received an amount equivalent to the penalties that are waived (treated as self-generated revenue). These shifts are depicted in the first two years of the table above, but these effects can potentially occur in diminishing amounts for a number of years. Finally, repeated amnesty programs, especially ones with short intervals of time between them, discourage voluntary compliance in years between amnesty programs as some taxpayers await the next program. To the extent this occurs it works to reduce annual collections below what would otherwise be received.

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Senate — Dual Referral Rules — House

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