

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 64** HLS 161ES 133
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: February 18, 2016 2:48 PM	Author: MONTOUCET
Dept./Agy.: Revenue	Analyst: Greg Albrecht
Subject: Sales Taxation of Business Utilities	

TAX/SALES-USE, ST-EXEMPT OR +\$238,200,000 GF RV See Note Page 1 of 1
 Provides for the extent of the state sales and use tax exemption for business utilities (Items #9 and 36)

Current law suspends the sales tax exemption to 1% of state sales tax for utilities purchased by nonresidential customers for essentially through the end of the accrual period of fiscal year 2016.
Proposed law will determine the extent of the exemption each calendar year based upon the natural gas spot price at Henry Hub as reported by the Energy Information Administration in their Annual Energy Outlook report. If the price of natural gas is less than \$6/mmbtu there is no exemption (subject to full state sales tax rate); if the price is between \$6 and \$7 purchases are exempt to the 1% levy in RS 47:331 (0.97% + .03%); between \$7 and \$8 purchases are exempt to 1.97% of levy in RS 47:331 & 321 (1%); if over \$8/mmbtu purchases exempt to to 4% of levy in RS 47:331, 321, and 302 (2%). The bill also provides various definitions and appears to move various energy purchases from exclusion status to exempt status.

Effective April 1, 2016.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	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	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$238,200,000	\$238,200,000	\$238,200,000	\$238,200,000	\$238,200,000	\$1,191,000,000
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000	\$9,000,000
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$240,000,000	\$240,000,000	\$240,000,000	\$240,000,000	\$240,000,000	\$1,200,000,000

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

REVENUE EXPLANATION

For affected purchases of utilities by businesses between April 1, 2016 and December 1, 2016, the sales tax exemption, and consequently the tax rate applied, is based upon the Energy Information Administration (EIA) Annual Energy Outlook report, February 2016 edition. However, the 2016 edition of the Annual will not be released until June 2016. Thus, the short-term report issued each month was utilized. The bill also does not specify the time period for a which a price is to reflect for the purposes of this bill. For the report's forecast horizon through 2017, the gas price does not achieve the bill's \$6 threshold for providing a full exemption to the statewide 4% sales tax rate. Thus, presumably, business utility purchases during the period April - December 2016 will be subject to a 4% state sales tax. Based on the current EIA forecast, a 4% levy will be in place through out the fiscal note horizon.

Based on current collections of the 1% levy on business utility purchases, a 4% levy will generate some \$240 million per year. However, the current levy is being protested by numerous taxpayers, and 40% of the gross collections are being pad under protest and escrowed. These protested payments are not available to fund the state budget. Assuming the levies proposed by this bill are not protested, collections in FY16 would be some \$60 million, with full year amounts of \$240 million collected in FY17 - FY20. Most of these collections will accrue to the state general fund, with a small amount accruing to the Tourism Promotion District. In FY16, the District would receive \$450,000 of the \$60 million collected.

Note: The bill provides a number of definitions as well as repeals of exclusions in 47:301. The fiscal note assumes the base of business utilities currently being taxed and reflected in the estimates above are the only transactions being affected by the bill.

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| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} | |
| <input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | |

John D. Carpenter
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