



LEGISLATIVE FISCAL OFFICE  
Fiscal Note

Fiscal Note On: **SB 265** SLS 20RS 57  
Bill Text Version: **ORIGINAL**  
Opp. Chamb. Action:  
  
Proposed Amd.:  
Sub. Bill For.:

<b>Date:</b> March 13, 2020 7:30 AM	<b>Author:</b> PETERSON
<b>Dept./Agy.:</b> Statewide	
<b>Subject:</b>	<b>Analyst:</b> Alan M. Boxberger

PUBLIC CONTRACTS OR SEE FISC NOTE LF EX Page 1 of 1  
Provides relative to payments under public contracts. (8/1/20)

**Present law** provides that public entities shall promptly pay all obligations arising under a public contract when the obligations are due and payable under the contract; requires that if the public entity fails to make any progressive stage payment without reasonable cause within 45 days after receipt of a certified request for payment, the entity is liable for reasonable attorney fees and interest charged at 0.5% accumulated daily, not to exceed 15%; requires if a public entity fails to make final payment after formal final acceptance and within 45 days after receipt of a clear lien certificate, the entity is liable for reasonable attorney fees and interest charged at 0.5% accumulated daily, not to exceed 15%; provides that any interest paid by public entities on public contracts shall be disbursed on a prorated basis among the contractors and subcontractors within ten business days of receipt of the interest payment; and that these provisions may not be waived by contract. **Proposed law** provides that the provisions of **present law** may be waived by contract.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	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	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	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

EXPENDITURE EXPLANATION

**Proposed law** may result in a slight decrease in aggregate state or local governmental expenditures associated with interest payments and/or attorney fees for failure to make any progressive stage or final payment of obligations due and payable under contract. **Proposed law** would leave the provision of **present law** requiring such payments as a negotiable element of the contract. To the extent state entities or local governing authorities successfully negotiate the waiver of interest and attorney fees for payments outside the prescribed 45-day window, those entities may realize an expenditure savings across all potential means of finance (noted as SGF at the state level and Local Funds at the local level in this fiscal note for simplicity). These expenditures may also potentially be currently made from contingency authority for capital outlay projects where available.

The potential savings is indeterminable as the number of state and local governing entities that currently fail to make payments within the 45-day window is unknown, as is the ability of state and local governing entities to successfully negotiate this waiver into contracts. However, the potential expenditure savings could be significant (up to a ceiling of 15% of the balance due plus attorney fees). The level of expenditure savings would depend on the prevalence of governmental entities failing to pay within the timeframe prescribed under **present law**, the number of days (up to 30) past the payment deadline when the account is typically settled, and the dollar value of the payments due. NOTE: The LFO believes the prevalence of failure to make timely payments is more common for contracts initiated by local governing authorities based on testimony provided during public debates in the 2018 Regular Session of the Louisiana Legislature.

The Louisiana Municipal Association reports that it would anticipate the waiver allowed in **proposed law** would likely be made part of the standard public contract, if and when possible.

REVENUE EXPLANATION

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

Senate	Dual Referral Rules	House	
<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}	<i>Evan Brasseaux</i>
<input 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}	Evan Brasseaux Staff Director