LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **SB 267** SLS 14RS 661
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: April 13, 2014 5:45 PM
Author: DORSEY-COLOMB
Dept./Agy.: Revenue
Subject: Personal Income Tax - Change Resident Definition
Analyst: Greg Albrecht

TAX/INCOME/PERSONAL OR DECREASE GF RV See Note

Defines "resident of the state" for the purpose of determining liability for individual income tax. (1/1/15)

Current law defines resident individuals, for purposes of income taxation, as every natural person domiciled in the state, and every other natural person who maintains a place of abode in the state, or who spends six months or more in the state during the year.

Proposed law defines resident individuals, for purposes of income taxation, as every natural person who has a residence in the state except someone who meets all the following criteria: the person or spouse has a residence outside the state supplied with utilities, the sum of the days the person plus the spouse resided outside the state is over half the year, the persons are not registered to vote or have discontinued voting in the state, the persons did not claim homestead exemption on ay residence in the state.
Effective for tax years beginning on and after January 1, 2015.

EXPENDITURES	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$0	$0	INCREASE	INCREASE	INCREASE	**$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**

REVENUES	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	DECREASE	DECREASE	DECREASE	DECREASE	**$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**

EXPENDITURE EXPLANATION

The Department of Revenue anticipates an increase in costs associated with tax disputes and litigation as a result of the language changes proposed. The bill removes the long-standing concept of "domicile", and replaces it with less settled phrases such as "has a residence", "common utilities residences have", and "has discontinued voting". These changes are subject to interpretation and will likely lead to additional disputes and litigation. While the bill may initially affect only a small number of taxpayers, tax planning strategies are increasingly common among upper income and wealthy taxpayers, and the bill provides additional avenues for these strategies, and thus additional likelihood of enforcement/compliance costs on the part of the Revenue Department.

The bill's provisions are first effective for the 2015 tax year, with returns filed in the spring of 2016. Additional dispute costs would not likely occur until FY17 at the earliest. The Department is primarily financed with fee and penalty revenue, and these additional costs are shown as self-generated revenue expenses in the table above.

REVENUE EXPLANATION

According to the Department of Revenue, the concept of domicile is broader than that of residence. By replacing the domicile concept with that of residence the bill narrows the applicability of the state income tax and will likely result in a loss of state income tax collections of some unknown magnitude. Revenue losses occur because of differences in the applicability of the tax to different types of income received by residents and nonresidents. Residents are taxed on wages earned in the state and income from all allocable interest earned in the state. Nonresidents are taxed only on wages earned in the state. The greater the share of non-wage income a taxpayer receives, the greater the benefits of the bill. Income of nonresidents is taxed more narrowly, and the bill will facilitate more taxpayers being able to claim nonresident status. The Department provided scenarios of taxpayers strategies, that don't appear difficult to implement, that result in less state tax under the provisions of this bill. Thus, it seems likely that the bill will result in a loss of state income tax collections, and this loss may grow over time as successful tax strategies based on the bill's provisions are utilized by more taxpayers.

The bill's provisions are first effective for the 2015 tax year, with returns filed in the spring of 2016, first affecting FY16.

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- [ ] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}
- [x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}
- [ ] 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}
- [x] 6.8(F)(2) >= $500,000 State Rev. Reduc. {H & S}
- [ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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