

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 157** HLS 17RS 874

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 1, 2017 7:23 AM	Author: GAINES
Dept./Agy.: LA Supreme Court	Analyst: Zachary Rau
Subject: Adds to Penalties for Capricious and Arbitrary Withholding	

PUBLIC RECORDS

OR SEE FISC NOTE

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Authorizes the assessment of a civil penalty not to exceed \$100 per day for arbitrarily or capriciously withholding a record

Present law allows courts to award damages to persons requesting public records that have been capriciously and arbitrarily withheld by the custodian of the record. Proposed law further allows courts to issue civil penalties of up to \$100 for withholding records in a manner deemed arbitrary and capricious, exclusive of Saturdays, Sundays, and public legal holidays.

EXPENDITURES	2017-18	2018-19	2019-20	2020-21	2021-22	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW					
Agy. Self-Gen.	SEE BELOW					
Ded./Other	SEE BELOW					
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW					
Annual Total						

REVENUES	2017-18	2018-19	2019-20	2020-21	2021-22	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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Proposed law will increase expenditures for state agencies and local governmental entities only to the extent they are the custodian of a public record and a court determines that they have capriciously and arbitrarily withheld the record in question. Present law already provides that persons requesting a record that has been capriciously and arbitrarily withheld may be awarded damages by the court upon actual damages being proven by the requester of the record. Proposed law represents an expansion of penalties for the arbitrary and capricious withholding of public records, further allowing courts to award the requester civil penalties not to exceed \$100 per day, exclusive of Saturdays, Sundays, and legal public holidays.

The expenditure increase for state agencies and local governmental entities associated with proposed law is indeterminable and based on two primary factors. State agencies and local governmental entities must first withhold a public record, then a court must determine if the withholding is arbitrary or capricious before awarding the new civil penalty. Presently such occasions are not tracked by the LA Supreme Court. However, because the penalty is \$100 per day, expenditure increases associated with the award and payment of civil penalties are presumed to be low, though ultimately indeterminable.

Note: because state agencies are funded using various means of finance, civil penalties may be paid using a number of different sources dependent upon an agency's appropriated budget authority.

REVENUE EXPLANATION

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

Senate Dual Referral Rules
 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)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux

Evan Brasseaux
Staff Director