LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 632** HLS 11RS 1049
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: June 3, 2011 3:15 PM
Author: HENRY
Dept./Agy.: Revenue
Subject: Apportion Broadcaster Revenue
Analyst: Greg Albrecht

TAX/TAXATION EG SEE FISC NOTE GF RV See Note

Provides the method of calculating taxable income derived from broadcasting film and radio programming which is attributable to activity in La.

Current law apportions the income of film or radio broadcasters to Louisiana on the basis of their Louisiana audience or subscriber share of their total audience or subscribers. License fees are treated as allocable income.

Proposed law retains current law apportionment for local television & radio stations and cable & satellite systems, but provides a different apportionment calculation for all other film and radio broadcasters (providers of programming such as CBS, ABC, ESPN...). For these program providers apportionment will be based on the share of income from Louisiana customers to their total income from customers. Louisiana customers are entities such as advertisers and licensees that contract directly with the program provider and are commercially domiciled in Louisiana. License fees would also be included as apportionable income. The new apportionment result shall be at least 25% of the result using an audience factor calculation. Effective for corporate income tax periods beginning in 2012, and for franchise tax periods beginning in 2013.

EXPENDITURES	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**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	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	**$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

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

REVENUE EXPLANATION

Without regard to tax compliance, the bill is likely to restrict the state tax base. Apportionment ratios based on audience factors are likely to be greater than those ratios based on the commercial domicile of the business customers of the program providers. Many advertisers and other business customers are unlikely to be commercially domiciled in Louisiana, while an audience factor is essentially based on the place of residence of viewers. Based on audits of affected taxpayers, the Department of Revenue (LDR) estimates the annual total liability affected by this bill to be $5.2 million per year. With the 75% audience factor floor applied, the bill would reduce annual revenue liabilities by $1.3 million (25% of total liability affected), leaving liabilities of $3.9 million per year.

However, the affected taxpayers have generally not been complying with current law for a number of years. From audits on tax periods ranging from 1997 to 2008 and involving various tax laws, $10.6 million has been paid in tax, interest, and penalty via protest, settlement, and amnesty. Annual average collections amount to $1.6 million. This bill's 75% floor factor would reduce those collections by $400,000 per year. Audits also identify some $18.9 million of unpaid tax from tax periods 2002 - 2008, with average annual liabilities amounting to $3.6 million. This record of actual collections and unpaid liabilities suggests that the effect of the bill is largely the foregoing of revenue from efforts to enforce current law rather an explicit reduction of the anticipated revenue forecast.

Since some of these liabilities have been paid, albeit primarily resulting from audit efforts of LDR, there is some chance of actual dollar losses in each fiscal year. Dollar losses are unlikely in FY12 because the bill is effective for corporate income tax periods beginning in 2012 (an FY13 impact), and franchise tax periods beginning in 2013 (an FY13 impact, as well, since the franchise tax is paid in advance and would be due in the second half of FY13).

It is possible that the bill would result in voluntary compliance. Industry has provided estimates of possible annual collections of $2 million to $2.5 million, based on the assumption that no collections are currently occurring, and a 25% floor. The likelihood and accuracy of these collection projections can not be confirmed.

Senate Dual Referral Rules House

☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}
☒ 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}
☐ 6.8(F)1 >= $500,000 Annual Fiscal Cost {S}
☐ 6.8(F)2 >= $100,000 Annual SGF Cost {H&S}
☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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