LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 629** HLS 13RS 439

Bill Text Version: **REENGROSSED**

Opp. Chamb. Action: **w/ SEN COMM AMD**

Proposed Amd.:

Sub. Bill For.:

Date: May 27, 2013 11:05 AM

Author: BROADWATER

Dept./Agy.: Revenue

Subject: Centralized Debt Collection

Analyst: Deborah Vivien

REVENUE DEPARTMENT RE1 DECREASE GF RV See Note

Establishes the office of debt recovery at the Dept. of Revenue for the collection of delinquent debts owed to certain governmental entities

Proposed law directs all agencies (including a local option) under contract with the Attorney General (AG) for debt collection on 1/1/14 to transfer all non-final debt (including penalties and interest) delinquent by 60 days or more to the AG after authentication. The AG is to either send proceeds back to the agencies or send the final debt to the Office of Debt Recovery (ODR) created by this bill within the Department of Revenue (LDR). Agencies without AG contracts (including a local option) must transfer final debt to ODR for collection. The AG keeps the authority to retain a percentage of debt collected. ODR is authorized to charge an additional 25% to the total owed amount. Collections of the 25% are split equally between the AG and ODR, after the collection expenses of each are paid, as agreed by the two agencies. All collections of all liabilities referred to the AG or LDR are transferred back to the agencies as SGR. In addition, the bill appropriates $5M annually for 5 years for State Police Academies, presumably from SGF. ODR is authorized to use all available offset programs (including debt transferred to the AG), garnish bank accounts, gambling winnings and suspend permits, licenses (except law), certificates, etc., along with all existing authorizations. Certain fees are due to banks for a data match program allowing the garnishment of accounts for delinquent state debt. ODR operations and collections contracts are subject to review by the Cash Management Review Board. ODR will recommend uncollectible debt for sale.

EXPENDITURES	2013-14	2014-15	2015-16	2016-17	2017-18	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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						

REVENUES	2013-14	2014-15	2015-16	2016-17	2017-18	5 -YEAR TOTAL
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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						

EXPENDITURE EXPLANATION

According to current Accounts Receivables reports, this bill potentially impacts several billion dollars in state (and possibly local) debt, transferring all of it to either the Attorney General (AG) or the Department of Revenue (LDR). Per testimony, LDR currently utilizes most of the tools allowed in this bill, though the bill allows a more highly automated use of them. A few new authorizations, such as garnishment of bank accounts, gambling winnings, and license suspensions are expected to improve the agency's ability to collect debt. Additionally, the bill allows LDR to contract for collection services, first with the AG, then with a third party. LDR estimates that 23 additional positions will be required to fulfill the duties of this bill. A fee of 25% of final debt, penalties and interest is authorized in this bill to pay collection expenses of the AG and LDR, with remaining proceeds split equally between the two agencies as SGR. In addition, the AG retains the ability to deduct a fee from collections, presumably including from all non-final debt that is mandated to be transferred when 60 days delinquent.

The LFO questions the need for additional personnel at LDR due to 1) the AG will be utilizing many of these tools on the non-final debt collection efforts, which should mitigate their effect on final debt, 2) if the procedures are automated, it should require fewer human resources or at least be accommodated by those currently referring the debt, 3) agencies under contract with the AG are exempt from mandatory transfer of debt to LDR, and 4) LDR indicates that all of the collection effort will be referred to a third party. Though additional staff may be necessary if the volume of referrals is very large, and automation still requires effort and oversight, justification for 23 new positions is questionable. It is expected that LDR will require extensive computer system reconfiguration and on-going

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REVENUE EXPLANATION

Though this program could improve collection of delinquent accounts and will organize two centralized debt collection units, it will result in a reduction in direct revenue to the state general fund, even with an increase in collections, since collections are subsequently transferred back to the agencies as SGR. There is no provision for encumbered funds that are collected but now classified as SGR. As an example, motor fuel tax collections would now revert to SGR instead of into the bonded transportation trust fund revenue stream. The impact on delinquency collections is indeterminable due to the uncertainty of the success of the debt recovery program relative to the current efforts across agencies. To the extent that these centralized collection points at AG and LDR and the new collection authority of LDR is more successful in collecting delinquent debt than the procedures currently practiced by the various agencies, delinquency collections, and presumably associated fees, will increase. However, under this bill, existing delinquency collections and any collections occurring due to efforts authorized in this bill, that previously were attributed to the original use of the debt will not become SGR within the initiating agency, potentially making significant funds available for use in other areas of the budget. Estimates provided by LDR anticipate an increase in collections of $22.6-$36.6 million annually from six initial agencies, but these returns are not assured under the parameters of the bill. Presumably, roughly $30M annually, along with all anticipated increases in debt collections, will become SGR, and available for appropriation by the legislature or directly by the Joint Committee on the Budget.

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Senate	Dual Referral Rules	House
[x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		[ ] 6.8(F) >= $500,000 Annual Fiscal Cost {S}
[ ] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}		[ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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CONTINUED EXPLANATION from page one:

Expenditure Explanation (Continued)
maintenance to capture and utilize debt data from all agencies. Cost estimates are roughly $2M in year 1 and $1M in subsequent years. Presumably, these costs will be funded with the surcharge of 25% on final debt collections (including owed amount, penalties and interest). It is not clear how the initial start-up will be funded prior to the mandated final debt transfer on January 1, 2014.

It is expected that the AG budget may need to be adjusted upward, but the agency will presumably have access to additional SGR as the 25% dollar retention will increase due to the additional debt transfers. The amount of additional resources necessary to carry out the debt collection efforts for all agencies in a timely fashion is not clear.

This bill allows the ODR to collect a fee up to 25% of the outstanding tax liability being collected, including amounts owed, penalties and interest. Since the final debt is only 60 days old when ODR acquires it, the collection rate is expected to be substantial, although may be similar to what is experienced in agencies currently collecting debt. The potential for redirection of funds from these other agencies to LDR may increase the resources available to LDR but could decrease the funds available for agencies currently collecting debt if they were reliant upon fees generated by collections. To the extent that LDR is able to collect fees and debt in excess of what is collected now, SGR will increase. The added fees will fund expenses of AG and LDR related to centralized debt, then be split equally between the two agencies as SGR to be used within the agencies or applied to other areas of the budget, outside of these two agencies.

Agencies not contracted with the AG are responsible for finalizing their debt, which will require these agencies to perform debt related duties in the same manner as current practice. Thus, there are likely to be few administrative savings as a result of consolidated efforts with these agencies, since final debt collection is typically already contracted out to third parties and that is also a likely option for ODR.

The state will also be liable for a participation fee paid to financial institutions for data match efforts as well as a levy of the debtor that presumably will be netted from the state portion prior to the transfer of the debtors' funds to the state. The amounts of these fees are not available but informal discussions indicate the participation fee will be minimal and the levy will be a fixed amount ($20-$30) per garnished account. It is not clear whether these expenses will be paid with proceeds from the 25% surcharge or from original liability collections.

If the 25% surcharge does not generate enough recurring funding for expenses, LDR may require state general fund to continue this effort, especially if the ODR unit hires an additional 23 employees and continues to contract debt collection to third parties.

There are currently no appropriations for administering this effort in the FY 14 budgets of the AG or LDR.

Revenue Explanation (Continued)

A study by the firm CGI is used as the basis for anticipated collections due to this bill. The CGI study indicates that available collectible debt that is not currently under contract with the AG, net of federal funds and net of an anticipated statewide collection under current practice of $25 M per year, is 72% or $63.2 M within Title 47 and excluded by this bill. By testimony and as indicated in the CGI report, LDR is currently undertaking most of the activities allowed in the bill, though possibly in a less automated fashion. Methodology behind the $25 M assumption of anticipated current collections is not clear. Regardless, it is very difficult, if not impossible, to attribute any collections solely to this bill while removing, with certainty, the possibility that the collections would have been made in the absence of this bill.

LDR is allowed to impose a fee of up to 25% of the tax liability (final debt, penalities and interest) upon the delinquent taxpayer. Any collections from the allowable fee will become self-generated revenue for ODR and AG, split evenly after collection expenses of each are paid. To the extent that these fees are collected, costs of the program will be offset. It is also expected that consolidating the receivables into a standardized system will help ensure that all penalties and fines are being properly assessed, which may also help increase collections.

Total penalties now imposed on final tax debt are: Department of Revenue penalty (15%), Office of Debt Recovery (Department of Revenue) penalty (25% cumulative), third party penalty (retained from collections; between 15% - 25%).