LEGISLATIVE FISCAL OFFICE
Fiscal Note

Louisiana Legislative Fiscal Office Fiscal Notes

Fiscal Note On: **HB 629** HLS 13RS 439
Bill Text Version: **ENROLLED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: June 17, 2013 9:12 AM
Author: BROADWATER
Dept./Agy.: Revenue
Subject: Centralized Debt Collection
Analyst: Deborah Vivien

REVENUE DEPARTMENT EN SEE FISC NOTE 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 under contract with the Attorney General (AG) for debt collection on 1/1/14 to transfer all non-final delinquent debt (including penalties and interest), presumably requiring legal action to the AG after authentication, though parameters appear conflicting. The AG will 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). The bill defines final debt as non-negotiable without any administrative and judicial recourse remaining. Agencies without AG contracts must transfer final debt to ODR for collection. The AG keeps the authority to retain a percentage of debt collected (25% for tax debt). ODR is authorized to charge up to an additional 25% of the total liability with notification to the debtor. Collections of the additional 25% fee are split 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 originating agencies. The bill also allocates $5M annually for 5 years for State Police Academies from SGF collected from final debt. ODR is authorized to use all available offset programs (including debt transferred to the AG), garnish bank accounts, 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 recommends 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.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
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.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
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

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, and license suspensions are expected to improve the agency's ability to collect debt. The bill allows LDR to continue to contract for collection services, though first with the AG, then with a third party.

LDR estimates that 23 additional positions may eventually be required to fulfill the duties of this bill, though early implementation will be accomplished with current resources. The AG indicates that its duties will be fulfilled without additional staff or resources necessary, though there appears to be the possibility of excess SGR available to pay for additional resources for either agency with an increased appropriation, if necessary.

There are two penalty/fee collections impacted by this bill. The AG may retain a fee from any collections of the non-final debt requiring judicial action which is mandated by this bill to be referred to the AG for finalization (for current tax debt, that fee is 25%). The proceeds of this fee pay the AG expenses, with the balance reverting to SGF at the end of the year. Due to the large amount of non-final debt in process, this amount could be substantial, possibly tens of millions more than currently collected by the AG but may actually be diverted from other agencies currently collecting in the same manner. Additionally, a levy of 25% of final debt, penalties and interest is added to the taxpayer's liability to pay collection expenses of the AG and LDR, with remaining proceeds split between the two agencies as SGR. LDR is allowed to retain all excess SGR, though any excess SGR with the AG will revert to the SGF at the end of the year. (Cont'd.)

REVENUE EXPLANATION

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. Estimates provided by LDR anticipate an increase in collections of $22.6-$36.6 million annually from six initial agencies, but these amount of additional receipts is uncertain. It is difficult to attribute additional incremental collections solely to the provisions of this bill while removing the possibility that the collections would have still been made in the absence of this bill. The definition of final debt as non-negotiable with no administrative and judicial rights remaining may conflict with current interpretations, which could impact the imposition of penalties by certain agencies and preclude some collection activities that are occurring under current law.

The bill contains an allocation of SGF revenue collected from final tax debt through the ODR of $5 M per year (five year allocation) for a State Police training academy class (subject to legislative appropriation). The balance of collections are referred back to their originating agencies, as is current practice. Presumably, additional final tax debt collected through ODR will be sufficient to finance the allocation in FY 14 and beyond, depending on when the ODR becomes operational and the amount of additional final tax debt collected through the office.

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 after collection expenses of each are paid. To the extent that these fees are collected, costs of the program will be offset. The amnesty progam as passed in HB 456 of 2013 Regular
(Continued on Page 2)

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}
[x] 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}

Gregory V. Albrecht
Gregory V. Albrecht
Chief Economist

CONTINUED EXPLANATION from page one:

Expenditure Explanation (Continued)

It is expected that LDR will require extensive computer system reconfiguration and ongoing maintenance to capture and utilize debt data from all agencies. Cost estimates are roughly $2M in year 1 and $1M in subsequent years, depending on the extensiveness of enhanced capabilities and ongoing maintenance. 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 also not clear whether a significant amount of additional fees will be collected in the beginning phases of the program if an amnesty program is open during the first 3 fiscal years of the centralized debt program (HB 456 of 2013 Regular Session). While the amnesty program is effective, essentially only final debt incurred after tax year 2012 will be subject to the new fee as all other debt will presumably have an amnesty option allowing avoidance of the additional fee contained in this bill's (HB 629) debt collection program.

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 deducted 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. Bank garnishment is only authorized for state debt in this bill.

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

There are potential conflicts in the bill concerning which agencies will promulgate rules for each portion of the program. There may also be a conflict as to when non-final debt is mandated to be transferred to the AG, as two sections of the bill refer to the same debt in a different manner.

Under the bill, the Secretary may assign collection efforts within the Department of Revenue to the Office of Debt Recovery or other units within the Department, essentially creating more than one debt collection unit within LDR. Only debt collected through the Office of Debt Recovery is authorized by the bill to charge the 25% fee. To the extent that tax debt (LDR debt), which is the majority of collectible outstanding debt, is not collected through the Office of Debt Recovery within LDR, SGR related to the 25% fee should not increase. Since the collection of tax debt either through the ODR or through LDR is at the discretion of the Secretary, this authority could effectively provide a means to waive the fee for certain debtors or accounts.

Revenue Explanation (Continued)

Session could impede fee collections through FY 16. 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 work to increase collections. These additional fees may also be a source of financing for the State Police allocation.

The AG may retain a fee (25% on tax debt) from collections, as in current law. With mandatory referrals of non-final debt that is currently being collected through means less stringent than those available through the AG, the amount of SGR available to the AG is expected to increase significantly from the current level.

With this bill, total penalties imposed on final tax debt are LDR (15%), ODR (25% additional), third party (retained from collections; 15% - 25%), though the LDR penalty may be waived. However, an amnesty program as passed in HB 456 of 2013 Regular Session could skew fee collections downward through FY 16.