LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 663** HLS 14RS 964
Bill Text Version: **REENGROSSED**
Opp. Chamb. Action: **w/ #2 SEN COMM AMD**
Proposed Amd.:
Sub. Bill For.:

Date:	May 22, 2014 11:24 AM	**Author:**	ROBIDEAUX
Dept./Agy.:	Revenue		
Subject:	Comprehensive Tax Amnesty	**Analyst:**	Greg Albrecht

REVENUE DEPARTMENT RE2 INCREASE SD RV See Note
Provides relative to the Louisiana Tax Delinquency Amnesty Act of 2013

Current law provides for a three phase tax amnesty. The 2013 phase was held during 2 months in the fall of 2013. The 2014 phase is for at least 1 month prior to 12/31/14, and the 2015 phase is for at least 1 month prior to 12/13/15. In the 2013 phase 100% of penalties and 50% of interest were waived; in the 2014 period 15% of penalties and no interest is to be waived; in the 2015 phase 10% of penalties and no interest is to be waived. Participants must abide by LDR interpretation of the issues for which amnesty was taken for three tax years following amnesty participation. LDR retains amounts equivalent to the penalties waived under the program plus amounts for the costs of program administration. LDR may contract with an outside vendor. After the LDR retention, receipts are to be credited to the 2013 Amnesty Collections Fund, and are available for appropriation for any public purpose. Proposed law waives 100% of penalties and 50% of interest during the 2014 phase, making those parameters identical to the completed 2013 amnesty period, and waives 33% of penalties and 17% of interest during the 2015 phase. Tax credits are not accepted as payment. Installment payment agreements, up to six months, are authorized and require automated electronic drafts for payments, but field audits and litigation issues are not eligible for installments. LDR retention for administrative costs are expanded to include without limitation marketing, advertising, and public information costs. After 2015, no new amnesties are allowed before January 1, 2025.

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.	INCREASE	$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**

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

EXPENDITURE EXPLANATION

The Department estimates that administrative costs of the fall 2013 phase 1 of the current amnesty law were approximately $7.5 million. It seems unlikely that the fall 2014 phase 2 and fall 2015 phase 3 would experience as much participation and cost as much as phase 1, but the Department will have to be prepared to handle what ever participation level occurs. Current law provides that administrative costs are paid from gross program receipts that are retained by the Department along with the dollar equivalent of foregone penalty amounts.

REVENUE EXPLANATION

The state has offered amnesty on at least six previous occasions, 1985, 1987, 1998, 2001, 2009, and 2013. The 1985 amnesty generated $1.2 million (382 taxpayers), 1987 $279,000 (77 taxpayers), 1998 $1.6 million (5,500 taxpayers), 2001 $193 million (30,166 taxpayers), 2009 $482.7 million (40,000+ taxpayers), and 2013 ($452 million, $382 million cash, 52,000+ accounts). The earlier amnesty programs (1985, 1987, and 1998) were very restrictive as to eligible taxpayers, while the amnesties in 2001, 2009, and 2013 were much less restrictive, as are the 2nd and 3rd phases of amnesty being modified by this bill, by allowing all taxes collected by LDR to be eligible for amnesty, except the motor fuel tax. With regard to the current law amnesty phases 1-3 which strongly encouraged phase 1 (2013) participation, the department estimated that more than 300,000 taxpayers may be eligible to participate, with $700 million available for collection, and possible practical receipts of $150 million - $175 million, under infrequent amnesties.

The experience of the state indicates that is possible for more revenue to be collected than expected. However, amnesty programs are not typically offered in such short intervals; in this case a 2013 phase with subsequent annual phases in 2014 and 2015. Also, the program requires participants to abide by the LDR interpretation of the law with respect to issues resolved through amnesty for the 3 tax periods following the amnesty. This should work to reduce the pool of potential and practical amnesty collections, although the 2014 phase has been made as beneficial to the taxpayer as was the 2013 phase and earlier amnesties. Thus, while the REC has recognized $100 million of projected net amnesty receipts during FY15, the impact of this bill is highly uncertain. Any specific amounts expected to be collected are speculative and no specific amount is recommended for purposes of this fiscal note.

An additional consideration is that it is likely that base revenue collections in subsequent years will be suppressed due to 1) the acceleration of future base collections into current amnesty receipts and 2) the recurrence of consecutive amnesty phases (with no reduction in benefits for participants in the 2014 phase 2) provides an incentive to avoid tax payment in anticipation of future amnesty opportunities. This second consideration is addressed in the bill by prohibiting new amnesties, after the 2015 phase, for ten years, until after January 1, 2025.

Senate Dual Referral Rules House

- [x] 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) >= $100,000 SGF Fiscal Cost {H & S}
- [ ] 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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Legislative Fiscal Officer

Continued Revenue Explanation

The bill directs all receipts, except those retained by the Revenue Department, to be deposited into the 2013 Amnesty Collections Fund to be available for appropriation for any public purpose.

Prior to the latest 2013 phase 1 amnesty, upon conclusion of the program, the REC had designated amnesty collections as non-recurring revenue, which restricted their use to various constitutionally enumerated capital outlay and debt repayment options. However, the amnesty program being modified by this bill is nontraditional, in that it established three distinct amnesty periods over three fiscal years (FY14, FY15, and FY16). It was possible that amnesty collections could occur for three consecutive years, and at its January 15, 2014 meeting the REC considered the 2013 phase 1 amnesty receipts as recurring revenue, as well as the phase 2 receipts currently anticipated in the FY15 budget. This version of the bill/program changes the benefit to taxpayers in phases 2 (2014) and 3 (2015), but retains the 3-year structure of the program.

The conditions of 2013 phase 1 strongly encouraged participation in the first amnesty period (2013, for the 2013-14 fiscal year) by making penalty and interest waivers in the second (2014) and third (2015) periods significantly less advantageous to the taxpayer. Total participation in 2013 phase 1 was substantial at $452 million (albeit some $70 million of this participation was in the form of surrendered tax credits, resulting in $382 million of cash participation). While there is always a material stock of tax disputes that could be eligible for an amnesty, it may be problematic how much disputed tax will participate in a second amnesty offered just one year after the last amnesty, and offered under conditions, prior to this bill, that were substantially less advantageous than those offered for phase 1 in 2013. Even though the conditions proposed by this bill are now the same as those offered in the 2013 phase 1, this was not known to taxpayers when they were deciding upon amnesty participation last year in 2013. In fact, at that time, both the 2014 phase 2 and 2015 phase 3 conditions were known to be materially less advantageous to participation that could be obtained by participation in phase 1. This suggests that whatever amnesty collections do occur in phase 2, they are likely to be less than occurred in phase 1.

Tax amnesty programs may generate some small amount of revenue from taxpayers whose liability is unknown to the department, but these programs largely result in revenue from taxpayers whose liability is actually known to the department. The provisions for installment payment may encourage some additional participation but this option is subject to the same waiver provisions as lump-sum payment and only allows for a six-month payment schedule. The installment option does not seem likely to materially increase the overall level of participation. In addition, the bill encourages taxpayers with final judgments against them or have exhausted their protest rights to participate in the amnesty program, or be subject to double penalties. This may work to increase amnesty participation. The essential effect of amnesty programs is to shift collections forward in time. Revenue collections are greater than otherwise in the year of the amnesty but then likely to be less than they would otherwise be in subsequent periods (even if greater absolute total receipts occur in subsequent periods). In addition, amnesty programs permanently forego collections of penalties, interest, and fees, some of which would otherwise be collected. Foregone interest is a loss to the state general fund, while foregone penalties and fees are a loss to self-generated revenue utilized by the department for its operations. To prevent this effect on the department's resources, the bill authorizes the department to retain from whatever amnesty collections are received an amount equivalent to the penalties that are waived (treated as self-generated revenue). These shifts are depicted in the first two years of the table above (for both traditional and nontraditional amnesty structures), but these effects can potentially occur for a number of years.

Finally, repeated amnesty programs, especially ones with short intervals of time between them, may discourage voluntary compliance in years between amnesty programs as some taxpayers await the next program. This compliance disincentive to taxpayers may be exacerbated by the consecutive year structure of the current amnesty law, and by the willingness to enhance the benefits to participation in subsequent phases from those that were originally enacted. This compliance disincentive is addressed in the bill by prohibiting new amnesties, after the 2015 phase 3 in current law, for ten years, until after January 1, 2025. In addition, the Department of Revenue may also be given detrimental incentives. In both phase 1 and 2, the Department has effectively been given a dollar goal for net amnesty receipts by building the state budget on anticipated receipts. The budget impact of these anticipated receipts can be magnified to the extent they are used as a state match for the medicaid program, as was done in FY14. While this incentive to the Department may work to insure meeting the budget goal of the Amnesty program, these receipts may come at the expense of normal general fund baseline collections. To the extent this occurs it works to reduce current annual collections below what would otherwise be the case, and is effectively a dedication of existing baseline tax collections.

Senate	Dual Referral Rules	House
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[ ] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}		[ ] 6.8(F)(2) >= $500,000 State Rev. Reduc. {H & S}
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