



OFFICE OF LEGISLATIVE AUDITOR
Fiscal Note

Fiscal Note On: HB 666 HLS 10RS 1207
Bill Text Version: REENGROSSED
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: May 27, 2010 10:34 AM Author: NOWLIN
Dept./Agy.: Tax/Sales-Use, Local Analyst: Michael Cragin
Subject: Recover of attorney fees by taxpayers

TAX/SALES-USE, LOCAL RE INCREASE LF EX See Note Page 1 of 1
Authorizes the prevailing party in certain collection actions to recover attorney fees and costs under certain circumstances

Purpose of Bill: To establish: 1) the legal matters in which local sales and use tax collectors may employ private counsel 2) when local taxing authorities must reimburse local collectors 3) a limit on the amount of attorney fees and legal expenses to be paid to the prevailing party in a court case 4) conditions under which a taxpayer is not liable for litigation costs 5) that the prevailing party in such legal matters will be entitled to attorney fees and legal costs from the non-prevailing party unless the non-prevailing party's position is "substantially justified" 6) the definition of the terms "prevailing party" and "substantially justified" 7) circumstances in which local collectors may waive the attorney fee award provided for and so preclude a taxpayer from recovery of attorney fees.

Table with 7 columns: EXPENDITURES, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 5 -YEAR TOTAL. Rows include State Gen. Fd., Agy. Self-Gen., Ded./Other, Federal Funds, Local Funds, and Annual Total.

Table with 7 columns: REVENUES, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 5 -YEAR TOTAL. Rows include State Gen. Fd., Agy. Self-Gen., Ded./Other, Federal Funds, Local Funds, and Annual Total.

EXPENDITURE EXPLANATION

This measure may increase expenditures of local taxing authorities by an indeterminable amount.

A taxpayer that does not prevail in a dispute would no longer have to pay the local collector's attorney fees if the taxpayer's position is found to be "substantially justified"--that is "has a reasonable basis in law and facts." In such cases, local government expenditures would be higher since they, not the taxpayer, would pay their own attorney fees.

Data from a limited selection of ten cases (both closed and pending) obtained through the Louisiana Association of Tax Administrators show parishes have been (or are now) involved in litigation that if the taxpayer were to prevail could require the local governments to pay up to 10% of amounts ranging from \$48,000 to over \$6,500,000.

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
[] 13.5.2 >= \$500,000 Annual Tax or Fee Change

House
[] 6.8(F) >= \$100,000 Annual SGF Cost
[] 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

Joy Irwin
Director of Advisory Services