

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 264** HLS 17RS 898  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> May 10, 2017 12:13 PM	<b>Author:</b> BISHOP
<b>Dept./Agy.:</b> REVENUE	<b>Analyst:</b> Benjamin Vincent
<b>Subject:</b> Sales & Use Tax Exclusion: Construction Contracts	

TAX/SALES-USE, EXEMPT EG DECREASE GF RV See Note Page 1 of 1  
 Excludes fixed fee and guaranteed maximum price construction contracts from a new sales/use tax levy if the contract was entered into prior to or within 90 days of the effective date of the new levy under certain circumstances.

Current law provides for sales and use tax exclusions for certain materials and services involved in construction contracts in the event of a new sales and use tax levy, and excludes from any new levy materials and services for a lump sum or unit price contract entered into either before the effective date of the new levy, or within 90 days if contractual obligations were undertaken prior to that date based on prior tax rates.

Proposed law includes fixed fee and guaranteed maximum price construction contracts in the existing sales tax exclusion. Applicable for any additional sales tax enacted on or after July 1, 2017.

Effective upon governor's signature.

<b>EXPENDITURES</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

  

<b>REVENUES</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

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

**REVENUE EXPLANATION**

According to the Dept of Revenue, the proposed law would expand the existing exclusion to types of contracts that were previously denied exclusion (cost-plus and fixed-fee). Proposed law specifies that the exclusion applies only to sales taxes that are enacted on or after July 1, 2017, thus the exclusion would presumably not be applicable to contracts that were previously denied.

Revenue impacts due to proposed law will be decreases in the state general funds and local funds, from what would otherwise be the case, due to an increased number of transaction types allowed an exclusion from a portion of any additional sales and use tax that might be enacted in the future. The size of any future revenue loss is unknown, due to the fact that LDR does not collect comprehensive data on the types of contracts encompassing these transactions.

Some information regarding the possible magnitude of affected contracts can be gleaned from the claims filed when the tax increase in April 2016 became effective. LDR reports that approximately 2,000 contracts were submitted for review when the sales and use tax rate increased, and approximately 20% of these were denied. A large number of the denials were due to the ineligibility of guaranteed maximum price contracts. Although not all of the contracts reviewed included a dollar amount, the value of the contracts that were denied the exclusion amounted to at least \$12.4 billion in services and materials, based on the contracts that did report a value. Approximately 30% of these sales typically consist of materials, implying \$3.7 billion in taxable sales. It is possible that additional exclusion-ineligible contracts did not even apply for the exclusion, and that the expanded exclusion would apply to a larger amount of taxable transactions than this amount. The 1% tax exclusion value of the known denials is a potential \$37 million over the life of these contracts. These past contract denials are presumably not affected by the bill due to its prospective applicability, but serve to illustrate the potential amount of contracts that could be affected in the future.

Senate Dual Referral Rules  
 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}  
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

House  
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}  
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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