LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On:	**HB 754** HLS 12RS 990
Bill Text Version:	**ENROLLED**
Opp. Chamb. Action:	
Proposed Amd.:	
Sub. Bill For.:	

Date:	June 12, 2012 2:31 PM	**Author:**	ROBIDEAUX
Dept./Agy.:	Economic Development/Revenue		
Subject:	State sales tax rebate for purchasing companies	**Analyst:**	Deborah Vivien

TAX/TAX REBATES EN SEE FISC NOTE GF RV See Note

Authorizes state sales and use tax rebate contracts for certain businesses

Proposed law provides for a rebate of a portion of state sales tax to procurement processing companies (PPCs) that generate transactions subject to state sales tax that presumably would not have otherwise occurred in the state. The rebate will be a negotiated portion of the sales tax associated with transactions of the PPC. The Department of Economic Development (LED) is to negotiate and sign the contract with the PPC, and the rebate will be calculated and paid by the Department of Revenue (LDR). Contract lengths are up to 40 years (20 years initial, 20 year renewal). Sales taxes generated are deposited into the state general fund, and disbursed each year in priority order: (1) rebate payments to PPCs, (2) LDR administrative expenses, (3) the next $30 million to a special dedicated fund created by this bill, (4) 10% of any remaining amount to this same special fund (90% of any remaining amount is retained by the state general fund). The special fund is to have two accounts, the Specialized Educational Institutions Account for specific dollar disbursements to specific institutions, and the UAL Account to make additional payments against the UAL from monies not disbursed to these institutions. See Page 2

EXPENDITURES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$480,400	$358,000	$358,000	$358,000	$358,000	**$1,912,400**
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	**$480,400**	**$358,000**	**$358,000**	**$358,000**	**$358,000**	**$1,912,400**

REVENUES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total						

EXPENDITURE EXPLANATION

LED reports that the bill will not require additional resources as its role ends once the contract is negotiated. However, on an ongoing basis, LDR must ensure that participating sales are truly new sales that would not otherwise be taxable in the state, and calculate and pay the rebates based on the agreement stipulated in the contracts. Based on the number of firms involved and sales volumes suggested by proponents, LDR suggests resource needs of 5 new positions (4 tax auditors and a tax specialist costing $358,000) to evaluate and issue rebates for a large set of monthly transactions. Initial setup of an e-file system and data capture processes could cost approximately $122,000. The bill allows LDR to withhold expenses from the sales tax proceeds.

REVENUE EXPLANATION

As explained by proponents, successful implementation of this bill is based on procurement processing companies (PPCs) managing transactions between out-of-state parties and in-state affiliates to create a tax liability in Louisiana. Proponents and the bill state that these purchases are not to have otherwise occurred in the state for purposes of taxation. For instance, when a firm in Ohio buys an item from a firm in Florida, a purchasing company (PC) affiliated with the Ohio firm will obtain title to that item in Louisiana, creating a Louisiana sales tax liability on an item that may never enter the state (presumably this will now become a Louisiana taxable transaction). The final user (in Ohio) will pay Louisiana sales tax (through the affiliated Louisiana purchasing company, for an item purchased from a Florida supplier). The PPC will then obtain a rebate from Louisiana of a portion of the state sales tax remitted on the transaction, per a contract negotiated with LED. Proponents anticipate a rebate of 80-85% of state sales tax with the state retaining 15-20%. The final user or affiliated purchasing company is prohibited from obtaining a refund from Louisiana of any sales tax for which the PPC receives a rebate. To market this sales tax reduction service, the PPC presumably shares a portion of its rebate receipts with the final user or affiliated purchasing company. The final user can typically take a credit against their sales/use tax liability in their state for the Louisiana sales tax paid. Essentially, sales tax revenues are shifted from the states of the final users to the state of Louisiana. The magnitude of potentially affected sales and associated sales taxes is speculative, and no specific amounts are anticipated in this fiscal note (although proponents have suggested several firms and large dollar transactions could be involved). It is not certain how many companies will execute contracts with LED as Procurement Processing Companies.

Given the unusual nature of this proposal, certain concerns about the fiscal effects of the bill are noted on page two.

The bill also dedicates portions of the proceeds, after rebate payments and net of LDR expenses, to a number of institutions (in specific dollar amounts) and to additional UAL payments in excess of scheduled amortization. These allocations are made through a special dedicated fund created by the bill: the Unfunded Accrued Liability and Specialized Educational Institutions Support Fund. These allocations are detailed on page two.

Senate	Dual Referral Rules	House
[x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		[ ] 6.8(F)1 >= $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:

Continued Explanation of the Bill
The LDR must certify the amount of new taxable sales involved and determine the amount of tax rebate to be paid to the PPCs from the sales taxes generated by the operations of the PPCs in the state. The PPCs and unrelated purchasing companies (PCs) must acknowledge that tax remittances by the PCs or affiliated entities do not constitute an overpayment of tax (and presumably can not claim a refund on a transaction involving a rebate). The Department of Revenue may promulgate rules and retain administrative expenses from the associated sales taxes. The LDR is authorized to recapture rebate amounts determined not to be associated with new taxable sales.

The new special dedicated fund created by the bill is the Unfunded Accrued Liability and Specialized Educational Institutions Support Fund, composed of two accounts: the UAL Account and the Specialized Educational Institutions Account. Of the monies flowing into the Fund, the Institutions Account is to allocate $30 million to the following institutions:

$5 million for the Louisiana Cancer Research Center of the LSU Health Sciences Center in the New Orleans/Tulane Health Sciences Center,

$5 million for the Feist-Weiller Cancer Center of the LSU Health Sciences Center in Shreveport,

$10 million for the LSU Agricultural Center,

$5 million for the Pennington Biomedical Research Center,

$5 million for the SU Agricultural Research and Extension Center.

These fixed dedication amounts will be reduced proportionately if available monies are insufficient to fully funding these amounts.

Any remaining amount in the Fund at the end of the fiscal year is to be deposited into the UAL Account, and to be used to make additional payments against the UAL of the public retirement systems.

Continued Revenue Explanation of the Bill
Given the unusual nature of this proposal, certain concerns about the bill should be noted:
1) It is essential that the existing and growing baseline of sales taxed by the state not flow through a PPC and be eligible for a rebate. This could occur if the final purchasers are actually in-state firms, or possibly if firms currently operating in the state form their own PPCs and purchasing company affiliates (PCs) to receive rebates for their own existing Louisiana sales tax payments. The Revenue Department is charged with this task, but how this will be successfully accomplished over the long terms of the contracts is not clear.
2) Much of the program will be governed by a contractual arrangement lasting as long as 40 years, negotiated by LED but with rebate payments determined and made by LDR. Those arrangements are not likely to be known to the legislature in advance and are critical to the state fiscal success of the proposal.
3) Reciprocal agreements with other states may be affected, in that final purchasers may be crediting their liability in other states while sharing in a portion of the Louisiana tax rebated back to the PPC. The bill attempts to hold the state harmless against refund claims if other states require full sales tax payment.
4) With successful implementation, the program would be providing a competitive advantage to out-of-state firms that might ultimately compete with in-state firms, encouraging in-state firms to establish their own purchasing affiliates and PPC arrangements to participate in the program's rebates with regard to their existing state sales taxes.

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[x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		[ ] 6.8(F)1 >= $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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