

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 585** HLS 13RS 1092
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 1, 2013 6:21 PM	Author: THIERRY
Dept./Agy.: Board of Tax Appeals/Revenue/Judiciary	Analyst: Deborah Vivien
Subject: Eliminates BOTA and creates Tax Court in Circuit Courts	

TAX OR +\$7,000,000 GF EX See Note Page 1 of 2
 Establishes a Tax Court for adjudication of tax matters

Current law: Taxpayers who are denied a claim for refund, object to a final assessment, or believe they have a claim against the state (i.e., an overpayment) may appeal to the Board of Tax Appeals. Taxpayers who appeal the decision of the Board of Tax Appeals, have a constitutional challenge to taxes, or have a claim against the state may file in District Court. State cases against a taxpayer are also handled in District Court. Local tax issues are filed in the appropriate District Court.

Proposed law: Establishes the Tax Court within the Courts of Appeal with coterminous districts to hear issues relating to the tax laws, fees or rules administered by the Department of Revenue, severance taxes, lien cancellations and penalty waivers. Requires that the court consist of at least 3 judges possessing certain qualifications to be elected at a special election. Prior to elections, Circuit judges will fulfill the duties of the Tax Court. The term is not specified. The jurisdiction of the Tax Court replaces the jurisdiction of the Board of Tax Appeals as of June 30, 2014. (continued on Page 2)

EXPENDITURES	2013-14	2014-15	2015-16	2016-17	2017-18	5 -YEAR TOTAL
State Gen. Fd.	\$7,000,000	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000	\$14,000,000
Agy. Self-Gen.	\$0	\$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	\$7,000,000	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000	\$14,000,000

REVENUES	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.	\$0	\$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	\$0

EXPENDITURE EXPLANATION

The proposed legislation creates a new tax court within the Court of Appeals and abolishes the Board of Tax Appeals (BOTA). The court will also hear small claims to resolve disputes arising under certain state and, if desired, local tax laws. State cases are currently filed with the Board of Tax Appeals or in district court. Local cases are currently handled at the local level. The court's judges, magistrate, clerk, and staff in general will be dedicated specifically to tax issues and would presumably become skilled and knowledgeable in those issues. The time required from filing a claim to receiving a judgment may be influenced by the potential size and geographical diversity of the docket.

The bill states that at least three judges shall be elected at a special election, which is estimated by the Secretary of State to cost about \$6 M since it is a statewide election. The first scheduled election is November, 2014. If these judges were elected then there would be no election cost resulting this bill. however, this date is beyond the effective date of the bill.

It is unclear whether three full-time judges with staff would be necessary to cover the number of cases that actually require a judgment. From experience at the Board of Tax Appeals and the District Court, most of these types of cases do not end in a trial. The judges are to be paid the same as District Court judges (about \$200,000 annually in salary and benefits) and cannot hold any other form of employment.

Costs were estimated by the Department of Revenue, Board of Tax Appeals and the Court of Appeals. They were made without clear guidance on staffing requirements due to caseloads or service expectations but acknowledging that 3 elected judges will likely require staff and overhead (roughly a half year impact in FY 14):

Salaries and Benefits: \$1M - \$2.5 M for a mid-range estimate of \$1.75 M per year (the low estimate allows for 1 court clerk, 1 hearing officer, 2 law clerks, 2 executive secretaries and 2 paralegals; the high estimate allows for 3 each of court clerk, executive secretaries, attorneys serving as clerks, court reporters, minute clerks, and law clerks) reflects an addition of 11-20 positions (BOTA will lose 5 positions for a net effect of 6-15 newly created positions).

(Continued on Page 2)

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure. The court is allowed to charge a filing fee of \$300 (\$50 in small claims) though the court can increase the fees to \$500 (\$100 in small claims) by rule. The court may also establish other fees for services rendered by the court. This note assumes that most of these fees were budgeted to the BOTA and District Court to the extent they were paid and will now be paid to the appropriate venue with this bill.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F) >= \$500,000 Annual Fiscal Cost {S}
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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CONTINUED EXPLANATION from page one:

Bill Summary (Continued)

In addition, the Tax Court will hear cases that are now filed in district court for state tax issues, though transfers of existing cases are only at the request of both parties. It is not clear whether local cases will necessarily be referred to tax court. The principal domicile will be Baton Rouge in the First Circuit Court of Appeals. Cases may be heard at the other four Circuit Courts, in the parish seat courthouse or other neutral sight, in accommodations provided by the local venue, or electronically at the determination of the taxpayer but with the consent of all parties.

There shall be a clerk of the Tax Court and any other staff as determined by the chief judge and, presumably, subject to appropriation. The compensation of the judges shall be the same as district court judges. Filing fees will be made to the clerk of the hearing venue.

Filing fees for cases less than \$5,000 are \$50 and filing fees for cases \$5,000 or greater are \$300. The Tax Court may also increase these fees to \$100 and \$500, respectively, by rule and establish other fees by rule for services rendered. In addition, any person summoned or deposed shall receive fees and mileage as allowed in civil proceedings, and these expenses may be assessed as court costs.

Expenditure Explanation (Continued)

Overhead Expenses: \$750,000 in year 1 and \$500,000 thereafter The bill does not make clear the requirements of each agency in funding the court. The District Court presumably has the responsibility of providing space for the court in multiple locations. The annual cost estimate of \$750,000 includes items such as rent, furniture, computers, and hearing room expenses such as travel, law books, etc.

These estimates are based on a variety of assumptions concerning the implementation of the court as specified in the bill. Actual costs could be significantly different than this figure based on requirements once the court becomes operational.

BOTA offset: -\$500,000 annually This bill abolishes the Board of Tax Appeals, with a budget of about \$500,000 per year (about \$475,000 in SGF with the remainder in SGR) and 5 positions, though the State would presumably continue to be liable for post-retirement and unemployment compensation. The funding for the Board of Tax Appeals appears to generally cover the overhead expense estimate of the tax court.

The District Court outside of the tax court will utilize any available resources toward other purposes within the responsibilities of the system, which may allow for a more expeditious procedure but would not result in significant fiscal savings.

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