

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 798** HLS 14RS 215

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

| | | |
|--|---------|--------------------------------|
| Date: April 1, 2014 | 1:41 PM | Author: STOKES |
| Dept./Agy.: Board of Tax Appeals/Revenue | | Analyst: Deborah Vivien |
| Subject: Allows BTA to hear protests of payment under protest | | |

TAX/STATE

EG -\$120,000 SG EX See Note

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Provides relative to the enforcement and adjudication of state taxes

Current law provides for 3 members of the Board of Tax Appeals (BTA) to be paid a per diem and expenses to hear cases concerning denied refunds, protested final settlements or claims against the state. 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. LDR refund offsets are noticed by certified mail.

Proposed Law retains current law and allows the Board of Tax Appeals (BTA) to hear payments under protest cases for the state. BTA judgments are appealed directly to the District Appellate Court. The bill also contains several procedural issues for BTA and taxes such as summary proceeding provisions, declares internal deliberations as judicial proceedings, allows recording without a stenographer, coordinates state and federal extension filing deadlines, allows the Secretary of LDR to cancel liens without BTA approval and outlines Board and Clerk powers. Proposed law allows lump sum transfer of payment in lieu of filing fees from LDR. Certain expenses may be recoverable by BTA as court costs. The penalty waiver threshold is increased from \$5,000 to \$25,000 under which the Secretary of LDR may waive penalties without BTA approval; Allows LDR to notify refund offsets by regular mail instead of certified mail. Effective 7/1/14

| 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. | (\$120,000) | (\$120,000) | (\$120,000) | (\$120,000) | (\$120,000) | (\$600,000) |
| Ded./Other | \$25,000 | \$25,000 | \$25,000 | \$25,000 | \$25,000 | \$125,000 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | \$0 |
| Annual Total | (\$95,000) | (\$95,000) | (\$95,000) | (\$95,000) | (\$95,000) | (\$475,000) |

| REVENUES | 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. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | \$80,000 | \$80,000 | \$80,000 | \$80,000 | \$80,000 | \$400,000 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | \$0 |
| Annual Total | \$80,000 | \$80,000 | \$80,000 | \$80,000 | \$80,000 | \$400,000 |

EXPENDITURE EXPLANATION

The bill will result in increased expenditures in the amount necessary to accommodate hearings of payments under protest between taxpayers and the state, which are now directed to District Court. BTA estimates additional expenses of about \$25,000 per year, including office space, shown as an expense from Other means-of-finance (an expected inter-agency transfer of funds). The additional expenses are expected to be paid by a lump sum transfer from LDR to the BTA in lieu of filing fees allowed under the provisions of this bill (indicated in this note by an increase in SGR expenditures for LDR and an increase in other revenue, inter-agency transfer, for BTA). SGR expenses of the BTA are estimated at \$80,000, and a lump sum payment is being transferred from LDR. The provision allowing LDR to notify refund offsets by regular mail instead of certified mail is expected to result in savings to LDR of about \$200,000 (68,000 letters at a net savings of \$3 per letter). The SGR expenditure impact depicted above is the net of \$200,000 savings in LDR and \$80,000 in increased expenditures in the BTA, or a combined -\$120,000.

A companion bill is HB 863 of 2014, which allows local sales tax disputes to be heard by the Board of Tax Appeals (BTA) and transfers the BTA to the Department of Civil Service, along with other provisions. Passage of that bill, HB 863, is contingent upon passage of this bill, HB 798.

Note: Some duplication of estimated expenditures may be inherent in the fiscal notes of HB 863 and HB 798, since the bills were addressed separately. For instance, some office space and supplies could accommodate the responsibilities outlined in both bills upon implementation, but are treated separately for purposes of the fiscal note.

REVENUE EXPLANATION

The bill is not expected to materially impact actual tax collections other than possibly allow a speedier recovery. It is assumed that the Secretary of Revenue will maintain the same pattern of penalty waivers in the absence of BTA approval.

Also included in the bill is a provision to allow the Department of Revenue to pay a flat rate inter-agency transfer (IAT) in lieu of filing fees. Discussions have indicated that LDR has agreed to request authority to transfer \$80,000 of self-generated fee revenue (SGR) to the BTA annually (with potential annual adjustments due to inflation or other reasons, though an amount is not specified in the bill). It is not clear where the additional fees will be generated. Currently, LDR pays no filing fees. If LDR collections of SGR do not materialize in an amount sufficient to fund LDR including this transfer, state general funds (SGF) could be required.

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|---|--|--------------------------------|--|
| <input type="checkbox"/> Senate | <input type="checkbox"/> Dual Referral Rules | <input type="checkbox"/> House | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & 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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