

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 863** HLS 14RS 394
 Bill Text Version: **REENGROSSED**
 Opp. Chamb. Action: **w/ #2 SEN COMM AMD**
 Proposed Amd.:
 Sub. Bill For.:

Date: May 9, 2014 8:56 AM	Author: DANAHAHAY
Dept./Agy.: Board of Tax Appeals/Revenue/Civil Service	Analyst: Deborah Vivien
Subject: Allows local sales tax disputes to be heard by BTA	

TAX APPEALS/BOARD RE2 INCREASE SG EX See Note Page 1 of 2
 Authorizes and provides for the adjudication of certain state and local tax disputes by the Board of Tax Appeals

Current law provides for three 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 and may file a claim against the state 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 is contingent upon the passage of HB 798 of 2014 and transfers the BTA from the Executive Department to Civil Service where a local tax division of BTA will be created. Local sales tax disputes will be heard by the BTA, either in Baton Rouge or the local jurisdiction if requested. State cases may be held remotely and BTA judgments may be appealed directly to District Appellate Court. Mandatory arbitration at the local level is repealed. The Board will be paid a salary, as set by the Governor, presumably with extra funds for local disputes with the status of per diem payments uncertain. At least 2 board members must be attorneys and at least 1 certified tax specialist. Sales Tax Commission adds 2 members appointed by Sheriff's Association and receives a copy of of BTA Local Tax Division budget. Proposed law also provides for the transfer of \$132,000 in

EXPENDITURES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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						
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.	\$37,500	\$50,000	\$65,000	\$65,000	\$65,000	\$282,500
Ded./Other	\$132,000	\$137,000	\$142,000	\$147,000	\$152,000	\$710,000
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>(\$132,000)</u>	<u>(\$137,000)</u>	<u>(\$142,000)</u>	<u>(\$147,000)</u>	<u>(\$152,000)</u>	(\$710,000)
Annual Total	\$37,500	\$50,000	\$65,000	\$65,000	\$65,000	\$282,500

EXPENDITURE EXPLANATION

The bill is expected to increase costs of the BTA (\$220,000 per year or about \$148,000 if per diem payments are discontinued) and add one additional staff position. Local taxing authorities may incur expenses for some consumable supplies, though these expenses may be recoverable as court costs in the future as judgments are paid. If local contributions (\$132,000+) and increased filing fees (\$37,500+) do not fund expenses related to local cases, SGF or some other source of funding will be necessary, though this appears unlikely if estimates prove accurate. Note: LDR has pledged an \$80,000 annual transfer of SGR to BTA in lieu of filing fees as authorized in HB 798, which must pass for this bill to become effective.

The BTA will incur additional expenses as a result of changing to salaried Board positions set by the Governor, though it is not clear whether per diem payments (\$140 per day) will be replaced or continue. According to discussions with the BTA, anticipated budget requests are about \$22,000 per Board member (\$66,000 total) with an additional \$45,000 in salaries to be distributed based on assigned duties for local hearings (\$66,000 + \$45,000 = \$111,000) plus FICA expenses of about \$4,500. In all, salary expenses are expected to be about \$115,000 per year. Current Board per diem payments are budgeted at \$72,500. If per diem payments are eliminated, the net budget increase due to a salaried Board is expected to be about \$42,500 annually (\$115,000-\$72,500 = \$42,500). If per diem payments are continued, the net increase to the budget is estimated at \$115,000 (total expense of \$187,500, including the \$72,500 per diem appropriation). In addition to these figures, if the Board meets 2 times per month with the full Board in attendance, per diem payments will increase by about \$10,000 per year, less if fewer Board members are included.

(Continued on Page 2)

REVENUE EXPLANATION

Revenue is expected to increase through additional filing fees (\$37,500 in first year, increasing with the number of cases filed in subsequent years) and through the redirection of consumer use tax distributions that would typically be sent to local taxing authorities. The bill stipulates that the first \$132,000 in local use tax distributions be directed to the BTA prior to the disbursement to local taxing authorities. This amount will increase by \$5,000 per year for 5 years as long as local use tax distributions are higher than the FY 14 amount.

The BTA anticipates the collection of \$37,500 in additional SGR as filing fees increase with the number of cases, estimated at 75 in the first year, growing to about 160 (or about \$50,000 in fees) by the third year. It is also possible that additional SGR will be recognized if court costs, including those related to local hearings, are recouped. Given associated supplemental fees, SGR could be a conservative estimate.

The BTA is currently appropriated about \$500,000 in SGF. 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. Decisions may be appealed to District Court. 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.

NOTE: LDR indicates \$80,000 will transfer to BTA as payment in lieu of filing fees upon passage of HB 798, which is required by this bill.

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|--|----------------------------|--------------|--|
| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input checked="" 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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CONTINUED EXPLANATION from page one:

Bill Summary (continued)

local use tax distributions to fund hearings of local disputes. The transferred funds remain with the BTA if they are not spent. The local contribution increases by \$5,000 per year for five years as long as prior year use tax distributions are above the FY 14 amount. Certain expenses may be recoverable by BTA as court costs.

Effective July 1, 2014, contingent upon the enactment of HB 798 of 2014.

Expenditure Explanation (continued)

Other expenses will increase due to more hearings of local disputes, anticipated to be two more hearings days per month or about 100 additional cases, whether they occur in Baton Rouge or require travel expenses. If the number of cases increases by 75, administrative expenses including supplies, legal support, office space, etc., are expected to increase by about \$40,000 per year. BTA also anticipates the need for an additional clerical staff employee at an annual cost of \$45,000 for a total administrative expense increase of about \$95,000.

Expenses are expected to grow with the number of cases. The bill allows travel and certain other related expenses to be considered court costs and may be recovered as part of the judgments. However, the fiscal note assumes no recoupment since timing is indefinite.

According to BTA, there are 61 local taxing authorities in the state. It is expected, though not required in the bill, that the local hearings will primarily occur in Baton Rouge. However, if the local taxing authority requests a local hearing for disputes involving only that taxing authority, BTA is obligated to accommodate and incur expenses, though the timing of the scheduling of the hearing is not mandated.

Local taxing authorities are obligated to provide space for local hearings and possibly some supplies, either directly or reimbursable.

Senate

Dual Referral Rules

House

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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