

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 94** SLS 18RS 452
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 18, 2018 4:34 PM **Author:** APPEL
Dept./Agy.: State and Local **Analyst:** Alan M. Boxberger
Subject: Provides for public liability for interest due for failure to pay

PUBLIC CONTRACTS EN SEE FISC NOTE LF EX See Note Page 1 of 1

Provides that public entities are liable for interest due for failure to pay progressive stage or final payments on public contracts under certain conditions. (8/1/18)

Present law requires public entities to promptly pay all obligations arising under a public contract when the obligations are due and payable under the contract. Requires that if the public entity fails to make any progressive state payment, without reasonable cause, within 45 days after receipt of a certified request for payment, the entity is responsible for reasonable attorney fees. Present law requires that if a public entity fails to make final payment after formal final acceptance and within 45 days after receipt of a clear lien certificate, the entity is liable for reasonable attorney fees.

Proposed law adds provision that the public entity is also liable for interest charged at 0.5% accumulated daily, not to exceed 15%.

EXPENDITURES	2018-19	2019-20	2020-21	2021-22	2022-23	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	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						
REVENUES	2018-19	2019-20	2020-21	2021-22	2022-23	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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

To the extent that any public entity fails to pay any progressive state payments, without reasonable cause, within 45 days after receipt of a certified request for payment, proposed law would result in an indeterminable but significant increase of local funds or SGF expenditures as public entities will be responsible for paying interest charged at 0.5% accumulated daily, not to exceed 15% (30 days total).

To the extent that any such interest charges are incurred, the LFO assumes the payments will be made from local funds for local governmental units, SGF (or alternate available means of finance) for state entities, or from contingency authority for capital outlay projects where available. The expenditure increases are indeterminable but potentially significant, and would depend on the prevalence of governmental entities failing to pay within the prescribed timeframe under present law, the number of days (up to 30) past payment deadline when the account is settled, and the dollar value of payments due.

Proposed law may result in constitutional challenges (Article 7, Section 14) with regard to imposition of interest payments not provided for in existing contracts outside of a judicial determination of fault or breach. The LFO is unable to determine the outcome of any such challenges.

REVENUE EXPLANATION

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

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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