

**LEGISLATIVE FISCAL OFFICE
Fiscal Note**



Fiscal Note On: **SB 334** SLS 20RS 583
 Bill Text Version: **RE-REENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 25, 2020 5:26 PM **Author:** ALLAIN
Dept./Agy.: LA Dept. of Revenue **Analyst:** Zachary Rau
Subject: LDR Funding, Penalty Amounts, Dispositions of Penalties

REVENUE DEPARTMENT RR SEE FISC NOTE GF RV See Note Page 1 of 2
 Provides for the funding of the operations of the Department of Revenue. (2/3 - CA7s2.1(A)) (7/1/20)

Proposed law retains present law's maximum penalty of 25% of the tax for combined failure to file and/or pay, but inserts provisions for a penalty of 0.5% per month when a taxpayer pays the amount shown on the face of the return, but not the full amount required. Proposed law further allows for additional 0.5% penalties on the amount owed to be levied if the tax is left unpaid for 30 days, and allows for additional penalties after every 30 day period. Proposed law amends penalty waiver provisions. Proposed law increases penalties for false/fraudulent returns by 25%, from 50% of the tax due to 75%. Proposed law amends various negligence penalties. Proposed law creates a new "willful disregard penalty" of 40% of the tax deficiency owed, including the presumption of willful disregard in any case where a taxpayer fails to timely remit tax withheld or collected. Proposed law dedicates 1% of all individual income, sales, and corporate income/franchise taxes to the Dept. of Revenue, less dedications. Proposed law directs all penalties less those in RS 47:1602.1, 1602.4, 1605, and 1606 to the State General Fund. Proposed law sets interest accruals on certain credits and refunds at three percentage points above the judicial rate. Proposed law suspends interest accruals on refunds when they are delayed due to taxpayers' failure to submit required information. Proposed law provides for effective dates.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	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

REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

EXPENDITURE EXPLANATION

The LA Dept. of Revenue anticipates a one-time expenditure of \$65,000 in FY 21 for programming and testing associated with the proposed measure's revised penalties. Furthermore, the department anticipate a one-time expenditure of \$60,000 in FY 22 for programming and testing associated with revised refund provisions included in the proposed measure.

REVENUE EXPLANATION

Proposed law will have an indeterminable net effect on SGF revenues and SGR collections for the LA Dept. of Revenue (LDR) beginning in FY 23 and subsequent fiscal years, although the proposed legislation appears to contemplate revenue neutrality in its structure. Furthermore, provisions revising interest accruals on refunds and credits will decrease statutorily dedicated/restricted funds and local revenues by an indeterminable amount beginning in FY 22 (see narratives below).

I - Revisions to Penalties and Fees

The aggregate revenue effect of revisions to the Late Payment Penalty, Accuracy-Related (formerly Negligence) Penalty, and Fraud Penalty is indeterminable in the aggregate beginning in FY 21, though any increase or decrease in revenues would accrue to the SGF beginning in FY 23 rather than the SGR as a result of this measure (See Section III below). The aggregate effect is indeterminable because of the number of penalties being affected and penalties levied are dependent upon taxpayer behavior under the new parameters of the proposed measure. Revenue from these sources totaled \$39.7 M (\$25.4 M - Late Payment Penalty, \$11.9 - Basic Negligence Penalty, \$2.4 M - Understatement Penalty) in FY 19. Furthermore, based on FY 19 collections of the Fraud Penalty (\$118,000), increasing the fraud penalty by 25%, from 50% to 75%, would increase revenues by an estimated \$59,000.

II - Dedication of SGF Revenues from Sales, Individual Income, Corporate Income/Franchise to LDR Self-Generated

Proposed law dedicates 1% of SGF revenue collections from the sales, individual income, and corporate income/franchise taxes less dedications to LDR beginning on July 1, 2022 (FY 23). This would decrease SGF collections and increase LDR's SGR collections by an indeterminable amount. Based upon the REC forecast adopted in May 2020, this would result in LDR receiving revenues in the following amounts by fiscal year: FY 23 - \$80.7 M, FY 24 - \$86.6 M. However, the exact amount of revenue being dedicated to LDR in any given year is dependent upon forecasted tax revenues and can vary significantly from year-to-year, especially but not exclusively with regard to corporate collections and state & federal tax law changes. Given the uncertainty inherent in the coronavirus pandemic outlook, repeated material adjustments to forecasts are possible for the foreseeable future.

III - Redirection of Penalties from LDR Self-Generated Revenue to SGF

Proposed law reclassifies all penalty revenue except those collected pursuant to LA R.S. 47:1602.1, 1604.2, 1605, and 1606 from LDR SGR to SGF beginning on July 1, 2022 (FY 23). Therefore, SGF revenues from this source will increase and SGR collections for the department will decrease by a like amount beginning in FY 23. LDR estimates that all penalties from this source totaled \$70 M in FY 19. However, SGF deposits from this source may vary from year-to-year and are dependent upon violations by taxpayers in a given fiscal year. **(Revenue Explanation cont. on Page 2)**

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}

Gregory V. Albrecht
 Chief Economist

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CONTINUED EXPLANATION from page one:
(Revenue Explanation cont. from Page 1)

IV - Revenue Loss Associated with Revisions to Interest on Refunds/Credits

Provisions of proposed law associated with interest on refunds and credits will decrease revenues for the SGF, restricted funds, and local revenues by the following estimated amounts in the aggregate beginning in FY 22 to align with the January 1, 2022 effective date: FY 22 - \$2.0 M; FY 23 - \$2.8 M; FY 24 - \$3.3 M; FY 25 - \$3.6 M. Proposed law increases interest paid on refunds and credits to three percentage points above the judicial rate. The aforementioned estimates are derived from using the FY 19 refund interest paid (\$6.6 M) and adding three percentage points to the rates paid in CY 18 and 19. For reference, the current judicial rate is 5.75%

V - Suspension of Interest Accruals on Refunds When Taxpayers Fail to Include Necessary Information

Provisions of proposed law suspending interest accruals on refunds when taxpayers fail to submit necessary information or documentation required by statute or regulation will result in an indeterminable SGF savings beginning in FY 21. However, because the number of taxpayers who will fail to submit required information is unknown, as well as the length of time the interest would accrue in the absence of the required information, the savings on accrued interest is presently indeterminable.

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