LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On:	**HB** **721** HLS 15RS 995	
Bill Text Version:	**ENROLLED**	
Opp. Chamb. Action:		
Proposed Amd.:		
Sub. Bill For.:		

Date: June 16, 2015 9:10 AM	**Author:** IVEY	
Dept./Agy.: Revenue		
Subject: Increase various LDR penalties	**Analyst:** Deborah Vivien	

REVENUE SECRETARY   EN +$5,900,000 SG RV See Note   Page 1 of 2
Provides relative to penalties collected by the Department of Revenue

<u>Current law</u> imposes a fee for insufficient funds for income tax payments of 1% of the check or, if less than $500, the greater of $5 or the amount of the check. All other insufficient funds payments are subject to the greater of $20 or 1% of the payment. This fee can be waived by the Secretary. Any waiver in excess of $25,000 requires the approval of the Board of Tax Appeals. <u>Current law</u> imposes a $500 fine on dealers who do not keep sales tax records as mandated. <u>Current law</u> imposes a penalty for negligence with no intent to defraud of 5% with a $10 minimum. Current law imposes a late penalty of 5% (0.5% for personal income tax) each 30 days of delinquency and requires 90% of income tax to be paid by withholding, estimated payments or other payments on or before the due date of the return.

   <u>Proposed law</u> removes the Board of Tax Appeals waiver approval requirement as of 12/31/15 and provides for oversight by House Ways & Means and Senate Revenue & Fiscal Affairs Committees for any penalty waivers in excess of $25,000

EXPENDITURES	2015-16	2016-17	2017-18	2018-19	2019-20	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	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$5,900,000	$5,900,000	$5,900,000	$5,900,000	$5,900,000	**$29,500,000**
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						

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

REVENUE EXPLANATION
This bill increases SGR for the Department of Revenue by increases various fees for negligence, late payments and required record maintenance. A small amount may be returned to local taxing authorities, including some negligence and late fees for hotel/motel sales tax.

Negligence - $5.4M
The penalty for negligence is increasing from the greater of $10 or 5% of taxes due to 10% of taxes due, which the Secretary can waive. For offenses of 25% or more of adjusted gross income with demonstrated willful intent to disregard state tax law, the penalty increases to a mandatory 20% of taxes due, which the Secretary may not waive. Per LDR, if this debt is referred to centralized collections, it will also be subject to an additional mandatory 25% penalty, including the negligence penalty. Using the average negligence penalties collected over the last three years and assuming all were assessed at 5% of taxes, raising the fee to 10% of taxes due would increases penalties by $5.4M per year. The fiscal note assumes a 10% negligence penalty; to the extent that larger taxpayers are assessed the higher penalty, this amount will increase.

Late Payments - $500,000
Late payment fines are not changed but the requirement that 90% payment of income tax must be made by the due date through withholding or other payments is eliminated in this bill. Eliminating the 90% requirement means 100% must be paid which would increase penalties for those paying between 90-99%. LDR reports an anticipated increase in penalties of about $500,000 due to this provision.

Dealer Record Maintenance - no fee revenue anticipated since dealers are more likely to comply than pay the fee.

It is not clear from the bill how late payments and negligence penalties are treated if the delinquent debt is also subject to the fees. Thus, the cumulative amount of penalties on delinquent debt is uncertain.

Senate	Dual Referral Rules	House	
☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		☐ 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}	
		☐ 6.8(F)(2) >= $500,000 Rev. Red. to State {H & S}	*Gregory V. Albrecht*
☒ 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}		☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}	**Gregory V. Albrecht** **Chief Economist**

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Summary (Continued from Page 1)

except those waived under the voluntary disclosure program. The bill directs the Secretary to share a complete record of waivers in excess of $25,000 with the oversight committees beginning 1/1/16 with taxpayer waiver acceptance as confidentiality consent.

Proposed law doubles the fine for dealers not keeping sales tax records as mandated from $500 to $1,000 Proposed law gives the Secretary discretion to impose a penalty of 10% of the negligent deficiency. If the offense is 25% or more of adjusted gross income with willful intent to disregard state tax law, the Secretary may impose a mandatory penalty of 20% of the deficiency or 15% without willful intent. Proposed law retains the late payment fines but removes the requirement of 90% payment of income tax by the due date through withholding or other payments. Proposed law defines willful for purposes of determining willful intent to disregard state tax laws in order to impose a penalty.

Senate	Dual Referral Rules	House		
☐			☐ 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}	
☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}			☐ 6.8(F)(2) >= $500,000 Rev. Red. to State {H & S}	
☒ 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}			☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}	

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