

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0034-02
Bill No.: SCS for SB 130
Subject: Attorneys; Administrative Law; Courts; Taxation and Revenue - Income;
 Taxation and Revenue- Sales and Use; Revenue Department
Type: Original
Date: March 2, 2017

Bill Summary: This proposal would require the Department of Revenue to pay the taxpayers' attorneys' fees in income tax and sales and use tax cases, when the taxpayer receives a favorable judgement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(Could exceed \$365,033)	(Could exceed \$384,545)	(Could exceed \$388,433)
Total Estimated Net Effect on General Revenue	(Could exceed \$365,033)	(Could exceed \$384,565)	(Could exceed \$388,433)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	6 FTE	6 FTE	6 FTE
Total Estimated Net Effect on FTE	6 FTE	6 FTE	6 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** assumed this proposal would require a court or commission to order DOR to pay the taxpayer's reasonable fees and expenses, as defined in Section 536.085, incurred in opposing the Department's action, if substantially all of the issues are decided in the taxpayer's favor.

DOR officials noted this section would remove dollar and employee requirements for specific entities when defining the term "Party." In addition, the proposal would modify the dollar amount required in the definition of "reasonable litigation expenses."

Administrative Impact:

DOR officials stated the Legal Services Division would anticipate an increased caseload from the expansion of who would qualify for attorney fees and would require three additional (3) Legal Counsel and one (1) additional Office Support Assistant.

DOR officials also assume the Criminal Tax Investigation Bureau would require two (2) additional Investigators II for the anticipated increase in caseload.

The DOR estimate of cost to implement this proposal including six additional employees and the related equipment and expense totaled \$380,738 for FY 2018, \$404,877 for FY 2019, and \$408,438 for FY 2020.

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This reflects a study of actual starting salaries for new state employees and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2018 could be reduced by roughly \$6,000 per employee.

Oversight has not received an estimate of the cost of paying reasonable attorney fees when issues are decided in the taxpayer's favor. Oversight will include the DOR cost estimate, as adjusted, for the administrative cost and will include a cost of \$0 or (Unknown) for attorneys' fees.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator** assume this proposal would have no fiscal impact on their organization.

Officials from the **Office of Administration - Division of General Services** assumed a previous version of this proposal would have no fiscal impact on their organization.

Officials from the **Office of Administration, Administrative Hearing Commission** assumed this proposal would not significantly alter its caseload; however, if similar proposals are passed, resulting in additional cases, there would be a fiscal impact to their organization.

Oversight assumes that current Administrative Hearing Commission staffing would be adequate but notes that resources could be requested through the budget process if unanticipated additional costs are incurred or if additional staffing is needed.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal would not have an impact on Total State Revenues or the revenue limit calculation required by the state constitution but would have a cost to the General Revenue Fund. BAP officials deferred to the Department of Revenue for an estimate of that cost.

	FY 2018	FY 2019	FY 2020
<u>FISCAL IMPACT - State Government</u>	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Cost - Department of Revenue</u>			
Salaries	(\$201,433)	(\$244,136)	(\$246,578)
Benefits	(\$108,653)	(\$131,687)	(\$133,004)
Expense and equipment	<u>(\$54,947)</u>	<u>(\$8,742)</u>	<u>(\$8,851)</u>
Total cost - Department of Revenue	<u>(\$365,033)</u>	<u>(\$384,565)</u>	<u>(\$388,433)</u>
FTE Change - DOR	6 FTE	6 FTE	6 FTE
<u>Cost - Department of Revenue</u>			
Taxpayers' Attorneys' Fees \$143.735	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Could exceed <u>\$365,033</u>)	(Could exceed <u>\$384,565</u>)	(Could exceed <u>\$388,433</u>)
Estimated Net FTE Change for the General Revenue Fund	6 FTE	6 FTE	6 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which have disputed tax case involving the Department of Revenue.

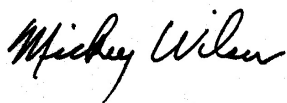
FISCAL DESCRIPTION

This proposal would require the Administrative Hearing Commission or a court to order the Department of Revenue to pay the taxpayer's attorneys' fees in income tax cases, and sales and use tax cases, when the taxpayer receives a favorable judgement. Payment for the fees would come from appropriations to the department and could not come from the State Legal Expense Fund.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements. It would require additional rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Office of Administration
 Division of Budget and Planning
 Administrative Hearing Commission
 Division of General services
Department of Revenue



Mickey Wilson, CPA
Director
March 2, 2017

Ross Strobe
Assistant Director
March 2, 2017