

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 264** HLS 17RS 898
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

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Dept./Agy.: REVENUE	Analyst: Benjamin Vincent
Subject: Sales & Use Tax Exclusion: Construction Contracts	

TAX/SALES-USE, EXEMPT OR DECREASE GF RV See Note Page 1 of 1
 Excludes fixed fee and guaranteed maximum price construction contracts from a new sales/use tax levy if the contract was entered into prior to or within 90 days of the effective date of the new levy under certain circumstances.

Current law provides for sales and use tax exclusions for certain materials and services involved in construction contracts in the event of a new sales and use tax levy, and excludes from any new levy materials and services for a lump sum or unit price contract entered into either before the effective date of the new levy, or within 90 days if contractual obligations were undertaken prior to that date based on prior tax rates.

Proposed law includes fixed fee and guaranteed maximum price construction contracts in the existing sales tax exclusion.

Effective upon governor's signature.

EXPENDITURES	2017-18	2018-19	2019-20	2020-21	2021-22	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	2017-18	2018-19	2019-20	2020-21	2021-22	5 -YEAR TOTAL
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
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	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Annual Total						

EXPENDITURE EXPLANATION

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

REVENUE EXPLANATION

Proposed law would expand the existing exclusion to many of the types of contracts that were previously denied exclusion in April 2016 (after the state increased its sales tax rate and expanded its sales tax base). LA Dept. of Revenue (LDR) notes that proposed law includes no provision to limit the amended exclusion to contracts entered into on or after a specific date. Thus, the bill could result in refunds of sales tax already paid, as well as sales tax to be paid prospectively.

Revenue impacts due to proposed law will be decreases in the General Fund and Local Funds due to an increased number of transaction types allowed an exclusion from a portion of the current sales and use tax. The size of the revenue loss is unknown, due to the fact that LDR does not collect comprehensive data on the types of contracts encompassing these transactions, and it is unclear whether the proposed law would be applicable to contracts that were previously denied.

Some information can be gleaned from the claims filed when the tax increase in April 2016 became effective. LDR reports that approximately 2,000 contracts were submitted for review when the sales and use tax rate increased, and approximately 20% of these were denied. A large number of the denials were due to the ineligibility of guaranteed maximum price contracts. Although not all of the contracts reviewed included a dollar amount, the value of the contracts that were denied the exclusion amounted to at least \$12.4 billion in services and materials, based on the contracts that did report a value. It is possible that additional exclusion-ineligible contracts did not even apply for the exclusion, and that the expanded exclusion would apply to a larger amount of taxable transactions than this amount. The 1% tax exclusion value of the known denials is a potential \$124 million over the life of these contracts.

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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