



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0303 - Revise withholding penalties for certain taxes (Hertz, Greg)

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$2,543,350	\$2,543,350	\$2,543,350	\$2,543,350
Net Impact-General Fund Balance:	<u>\$2,543,350</u>	<u>\$2,543,350</u>	<u>\$2,543,350</u>	<u>\$2,543,350</u>

Description of fiscal impact: SB 303 increases the fines for not filing necessary wage withholding or mineral-royalty withholding annual statements to the Department of Revenue. The proposed fee change will increase general fund revenue by \$2,543,350 in FY 2024, FY 2025, FY 2026, and FY 2027.

FISCAL ANALYSIS

Assumptions:**Department of Revenue**

- Under current law, employers that fail to furnish the department with the annual wage and tax statement for each of their employees by January 31, is subject to a \$5 penalty for each failure, there is a minimum penalty of \$50. The department also imposes a penalty of \$50 for each failure by a mineral royalty holder to file their required annual statement to the department by January 31 of each year. The minimum penalty for the royalty holder is \$1,000.
- SB 303 increases the penalties for employers who fail to provide the annual withholding statement for each employee from \$5 per failure to \$50. The minimum penalty is also increased from \$50 to \$1,000. The penalties for mineral royalty withholding are also increased from \$50 to \$150, with the minimum also increased from \$1,000 to \$3,000.

3. SB 303 also creates a 30-day grace period for employers and mineral royalty holders before penalties are imposed. The bill also allows the department to waive either of the penalties for reasonable cause.
4. The changes made by SB 303 are effective upon passage and approval of the bill (TY 2023 reports due January 31, 2024, which is in FY 2024).

Calculating withholding penalties

5. In TY 2020, the Department of Revenue received approximately 1,200 MW-3s (annual withholding report) from businesses with no corresponding W-2s. These businesses reported approximately 14,300 employees with missing W-2 statements. In TY 2021, the department received 890 MW-3s from businesses, but the reports did not include the W-2s that should have been sent for approximately 17,300 employees.
6. The average number of missing W-2s for each of the received MW-3s was 11.8 (14,300 / 1,200) in TY 2020 and 19.4 (17,300 / 890) in TY 2021.
7. In addition, the Department of Revenue received no MW-3s or W-2s from approximately 11,000 businesses in TY 2020 and 8,200 in TY 2021.
8. It is assumed that the businesses that did not file an MW-3 or any W-2s have the same average number of missing W-2s each tax year.
9. With 11,000 missing MW-3s in 2020, and an average number of missing W-2s of 11.9, it is assumed that a total of 130,900 W-2s were not reported by these employers in 2020.
10. In 2021, 8,200 missing MW-3s, represent a total of 159,080 W-2s the were not reported (19.4 per MW-3).
11. In total, 12,200 employers are assumed to not have filed W-2s in TY 2020 and 9,090 are assumed to have not filed W-2s in TY 2021. The total number of missing W-2s is assumed to be 145,200 in TY 2020 and 176,380 in TY 2021.
12. It is assumed that each employer will pay the minimum fee amount for their first employee, and then the regular fee for all other employees.
13. With 145,200 missing W-2s in TY 2020, the 12,200 employers would be subject to \$1,275,000 $((12,200 \times \$50) + ((145,200 - 12,200) \times \$5))$ in fees under current law.
14. With 176,380 missing W-2s in TY 2021, the 9,090 employers would be subject to \$1,290,950 $((9,090 \times \$50) + ((176,380 - 9,090) \times \$5))$ in fees under current law.
15. The same employers in TY 2020 would have been subject to \$18,850,000 $((12,200 \times \$1,000) + ((145,200 - 12,200) \times \$50))$ in fees if the provisions of SB 303 had been in place for the tax year.
16. The same employers in TY 2021 would have been subject to \$17,454,500 $((9,090 \times \$1,000) + ((176,380 - 9,090) \times \$50))$ in fees if the provisions of SB 303 had been in place for the tax year.
17. The Department of Revenue assumes that increasing the penalties for non-filing will decrease the number of missing MW-3s and W-2s. It is assumed that the higher fees will reduce non-filing by 70%.
18. With a reduction in non-filing of 70%, the total number of fees that would have been collected in TY 2020 and TY 2021 if the provisions of SB 303 were in place decreases to \$5,655,000 and \$5,236,350, respectively.
19. Based on the fees that are assumed to have been collected under current law in 2020 and 2021, and the estimated fees under the proposed law for the two years, the Department of Revenue would have collected \$4,380,000 in additional fees in TY 2020 and \$3,945,400 in TY 2021.
20. It is assumed that the Department of Revenue would have collected the average additional revenue collected in TY 2020 and TY 2021 in future tax years, which is \$4,162,700.
21. The Department of Revenue expects to waive 50% of the fees due each tax year.
22. With 50% of fees waived, and \$4,162,700 in additional fees, a total of \$2,081,350 in additional income withholding fees are assumed to be collected each tax year under SB 303.

Calculating royalty withholding penalties

23. From TY 2018 through TY 2021, the department collected an average of \$231,000 in royalty withholding penalties each year. With a penalty amount of \$50 under current law, an average of 4,620 royalty and tax statements were not filed in the necessary time frame and were assessed a fee.
24. It is assumed that 4,620 royalty and tax statements will continue to be subject to a fee in future tax years.
25. Under SB 303, the fee assessed to not filing a royalty and tax statement is increased to \$150.

- 26. With 4,620 statements subject to the fee each year, and a fee amount of \$150, a total of \$693,000 in fees will be collected each tax year.
- 27. With \$693,000 in royalty fees each year under SB 303, and \$231,000 in fees under current law, the proposed bill will increase royalty fee collections by \$462,000 each tax year.

Combined effects

- 28. With \$2,081,350 in additional wage withholding penalties, and \$462,000 in additional royalty fee collections, it is assumed that SB 303 will increase revenue collections by \$2,543,350 each tax year the bill is in place.
- 29. With a filing deadline of January 31, it is assumed that the fees collected for each tax year will be collected the following fiscal year.
- 30. With \$2,543,350 in fees each tax year, and an implementation date during TY 2023, the proposed bill will increase general fund revenue by \$2,543,350 in FY 2024, FY 2025, FY 2026, and FY 2027.
- 31. The changes made by SB 303 can be made as part of the Department of Revenue annual change process. The department does not expect to incur any significant additional costs because of this bill.

<u>Fiscal Impact:</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Department of Revenue	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	\$2,543,350	\$2,543,350	\$2,543,350	\$2,543,350
TOTAL Revenues	<u>\$2,543,350</u>	<u>\$2,543,350</u>	<u>\$2,543,350</u>	<u>\$2,543,350</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$2,543,350	\$2,543,350	\$2,543,350	\$2,543,350

NO SPONSOR SIGNATURE

Sponsor's Initials

2/17/23

Date



Budget Director's Initials

2-16-23

Date