

2024 Regular Session

SENATE BILL NO. 191

BY SENATOR REESE

TAX/TAXATION. Provides relative to the enforcement and adjudication of state and local taxes and the Board of Tax Appeals. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(7)(b), 1402(E)(1), 1403(A)(5) and (B)(4),
3 1417(C)(3), and 1565(C)(2), relative to the enforcement and adjudication of state and
4 local taxes and the Board of Tax Appeals; to provide with respect to disputes
5 concerning taxes; to provide for tax administration; to provide with respect to certain
6 revenues dedicated to the board; to provide relative to ad hoc judges; to provide
7 relative to remote witness testimony; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:302(K)(7)(b), 1402(E)(1), 1403(A)(5) and (B)(4), 1417(C)(3), and
10 1565(C)(2) are hereby amended and reenacted to read as follows:

11 §302. Imposition of tax

12 * * *

13 K. An additional tax shall be levied as follows:

14 * * *

15 (7)

16 * * *

17 (b) The amount **of local tax** specified in Item (a)(i) of this Paragraph as

1 transferred to the Department of State Civil Service, Board of Tax Appeals, **Local**
 2 **Tax Division** shall be increased by fifty-five thousand dollars on July 1, 2015, by
 3 thirty-two thousand dollars on July 1, 2016, and by five thousand dollars on the first
 4 day of each of the subsequent fiscal years. The amounts specified in this
 5 Subparagraph and Subparagraph (a) of this Paragraph shall be transferred by the
 6 secretary within the first thirty days of each fiscal year and the Department of State
 7 Civil Service, Board of Tax Appeals, may retain all funds that are transferred as
 8 directed in this Subparagraph and Subparagraph ~~(b)~~**(a)** of this Paragraph.

* * *

§1402. Membership of board; qualifications; appointment; term; vacancy; salary

* * *

12 E.(1) Notwithstanding any provision of law to the contrary, a board member
 13 shall continue to serve until a successor has been appointed. No member may be
 14 removed except by induction into office of a successor, duly appointed and qualified
 15 pursuant to this Section, upon expiration of a term of office or for good cause shown,
 16 which shall be subject to judicial review; **provided that good cause shall mean**
 17 **those causes enumerated for removal by suit pursuant to Article X, Section 25**
 18 **of the Constitution of Louisiana, or its successor.**

* * *

§1403. Designation of officers; domicile; quorum; seal

A.

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23 (5) In the event of a vacancy lasting more than ~~ninety~~ **thirty** days **or if the**
 24 **local tax judge submits a written request for assistance**, the supreme court is
 25 authorized to make assignments or appointments **for a local tax judge ad hoc** in the
 26 same manner as authorized pursuant to Article V, Section 5(A) of the Constitution
 27 of Louisiana, ~~and~~. **Notwithstanding any provisions of law to the contrary**, any
 28 **sitting or retired** ad hoc judge so assigned shall receive the compensation specified
 29 in this Chapter for ad hoc appointment ~~due to refusal~~ **pursuant to this Paragraph.**

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B.

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(4) ~~With the consent of all parties or upon the request of the taxpayer in a pre-trial matter involving only a state collector, the~~ **The** board may allow for a hearing to be held by telephone, video conference, or similar communication equipment, including the administration of oaths in proceedings.

* * *

§1417. Recusal; board members

* * *

C.

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(3) Upon entry of an order of recusal concerning ~~the board member presiding over~~ a case in the Local Tax Division, the case shall be reassigned to be heard **by an ad hoc judge appointed by the supreme court pursuant to R.S. 47:1403(A)(5) with any other board member eligible for that appointment** in accordance with Paragraph (2) of this Subsection, or, upon a joint motion of all parties it may either be heard pursuant to Paragraph (1) of this Subsection or be transferred to the district court of proper venue.

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§1565. Notice of assessment and right to appeal

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C.

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(2)**(a)** The determination of an error of fact or of law under this Subsection shall be solely that of the secretary **except as otherwise provided in this Subsection**, and no action against the secretary with respect to the determination shall be brought in any court, ~~nor shall any appeal relating thereto be brought before the Board of Tax Appeals~~, and no court shall have jurisdiction of any such action, nor the Board of Tax Appeals **except as provided in this Subsection** of any such

1 ~~appeal~~, it being the intent of this Subsection only to permit the secretary to correct
2 manifest errors of fact or in the application of the law made by the secretary in
3 making the assessment; however, all reductions of assessments based on such errors,
4 except estimated assessments made due to the failure of the taxpayer to file a proper
5 tax return, must be approved and signed by the secretary, and the assistant secretary
6 or the deputy assistant secretary ~~of~~ supervising the office of legal affairs of the
7 Department of Revenue, and shall then be ~~approved~~ submitted for review by the
8 Board of Tax Appeals and if approved shall be signed by the chairman thereof.
9 Estimated assessments made due to the failure of the taxpayer to file a proper tax
10 return may be corrected by the acceptance of the proper tax return and must be
11 approved by the secretary or his designee.

12 (b) A person may petition the Board of Tax Appeals within thirty days
13 of receipt of a notice related to a seizure, levy, garnishment, offset, or other
14 collection action, whether occurred or intended, related to an assessment that
15 qualifies for relief pursuant to Paragraph (1) of this Subsection. If the board
16 finds clear and convincing evidence that the otherwise final assessment qualifies
17 for relief pursuant to Paragraph (1) of this Subsection it shall order that the
18 matter be referred to the secretary for review pursuant to provisions of this
19 Subsection, and the assessment shall not be collectible until such time as the
20 assessment has been redetermined pursuant to this Subsection. The secretary
21 shall submit any redetermination to the board for approval in the same manner
22 as provided in Subparagraph (a) of this Paragraph.

23 (c) A person who has been the subject of a collection action related to an
24 otherwise final assessment that qualifies for relief pursuant to this Subsection
25 may file a refund claim with the secretary within the applicable prescriptive
26 period pursuant to R.S. 47:1623 following the secretary's receipt of the funds.
27 Any refund authorized by this Subparagraph shall be additionally limited to
28 any amount actually collected by the secretary that was not actually due
29 considering a redetermination made pursuant to this Subsection due to the

an order of recusal of a board member presiding over the case.

Present law provides that reductions of assessments based on an error of fact or of law shall be approved and signed by the secretary of the Department of Revenue, and the assistant secretary or the deputy assistant secretary of the office of legal affairs, and then approved and signed the chairman by the Board of Tax Appeals.

Proposed law provides that approvals of reductions of assessments based on an error of fact shall be approved and signed by the secretary and signed by the assistant secretary or deputy assistant secretary supervising the office of legal affairs, and then submitted for review to the Board of Tax Appeals, and if approved signed by the board's chairman.

Proposed law authorizes a person to petition the Board of Tax Appeals within 30 days of the first receipt of a notice related to a seizure, levy, garnishment, offset, or other collection action, whether occurred or intended, related to an assessment based error of fact or error of law. If the board finds clear and convincing evidence that the final assessment qualifies for relief, it shall order that the matter be referred to the secretary for review. The assessment will become collectible until the assessment has been redetermined. Requires the secretary to submit any agreed redetermination to the board for approval.

Proposed law provides that a person who has been the subject of a collection action related to a final assessment that qualifies for relief may file a refund claim with the secretary within the applicable prescriptive period in law following the secretary's receipt of the funds.

Proposed law provides that the refund of a person who has been the subject of a collection action related to a final assessment that qualifies for relief is limited to the amount actually collected by the secretary.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:302(K)(7)(b), 1402(E)(1), 1403(A)(5) and (B)(4), 1417(C)(3), and 1565(C)(2))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Clarifies provisions relating to the removal of a board member of the Board of Tax Appeals.
2. Provides for appointment of an ad hoc judge appointed by the supreme court.
3. Provides for petition to the Board of Tax Appeals within 30 days of a notice related to collection action.
4. Provides the secretary of the Department of Revenue shall submit any redetermination to the Board of Tax Appeals for approval.
5. Clarifies any refund authorized shall be limited to any amount actually collected by the secretary of the Department of Revenue.
6. Makes technical amendments.

Senate Floor Amendments to engrossed bill

1. Technical legislative bureau amendment