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## DIGEST

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HB 573 Original

2021 Regular Session

Stefanski

**Abstract:** Provides for the administration, review, and adjudication of ad valorem tax assessments by the Board of Tax Appeals, the La. Tax Commission, and assessors.

Present law provides for the establishment of the Board of Tax Appeals (hereinafter "board") to hear and decide disputes between taxpayers and any state or local tax collector. Present law provides for the membership, qualifications, and appointments to the board.

Proposed law retains present law as it relates to the board but expands the qualifications of a nominee for a board position to include a person who has La. tax law experience rather than a person with La. *sales* tax law experience.

Proposed law increases the membership of the Local Tax Division Nominating Committee from eight to 10 members by adding a member who represents the La. Assessor's Association and a representative selected jointly by the Council of State Taxation, the Pelican Institute, and the La. Chamber of Commerce Foundation. Further expands the qualifications for members of the nominating committee to include a certified La. assessor.

Present law provides for the jurisdiction of the board which includes petitions for declaratory judgment or actions related to the constitutionality of a law or ordinance or the validity of a regulation concerning a state or local tax or fee.

Proposed law retains present law but adds that the board's jurisdiction over petitions for declaratory judgment or other actions extends to matters related to state or local taxes or fees but excludes from the board's jurisdiction matters related solely to the correctness of an assessment by a parish assessor that is subject to review by the La. Tax Commission (hereinafter "commission").

Present law defines a "local collector" as an individual or entity responsible for collecting occupational license or occupancy taxes, or local taxes or fees except those tax matters within the jurisdiction of the commission.

Proposed law adds ad valorem taxes to the taxes a local collector may collect and removes the exclusion for tax matters within the jurisdiction of the commission. Proposed law further defines a local collector to include an assessor or the commission if they are a party to a proceeding related to appeals for the redetermination of an assessment or the determination of an overpayment.

Present law authorizes a taxpayer to appeal to the board for a redetermination of an assessment or

a determination of an overpayment when a taxpayer is aggrieved by an assessment made by a state collector or by a state collector's action or failure to act on a claim for refund or credit of an overpayment. Present law establishes a procedure for a taxpayer to file a petition for payment of taxes under protest.

Proposed law retains present law but specifies that a taxpayer must comply with the present law procedure related to suits for payment of taxes under protest.

Proposed law sets forth a procedure for a relevant party who is aggrieved by an action of a local collector, assessor, or the commission, if the action is appealable to the board. Further authorizes an intervention by the relevant assessor and requires joinder of the relevant assessor under certain circumstances. Proposed law excludes actions concerning local tax sales, the nullification of tax sales, or the contesting of the seizure of movables for collection from this procedure.

Present law provides for the determination of the appellate court that has jurisdiction over decisions or judgments of the board including the court of appeal for the parish where the tax is being litigated, the court the parties stipulate to have jurisdiction, or the court of appeal for the parish of the appellee for a case appealed by a collector.

Proposed law retains present law but provides that if none of the options for review in present law are applicable, the court of appeal designated by the board that has the most connection to the matter or, if none, the court of appeal for East Baton Rouge parish.

Present law requires the commission to value and assess public service properties for purposes of ad valorem taxes. Further requires the commission to give notice of the initial determination of the assessed valuation in writing to a company and the initial determination shall become final if no protest is filed with the commission within 30 days after receipt by the company of the notice of the initial determination. Present law provides for a procedure for a company to protest an initial valuation and a procedure for the company to appeal decisions of the commission.

Proposed law retains present law but authorizes parties to appeal to the board in suits contesting the valuation or assessment of public service properties when the suit affects assessments of property in more than one parish. Further clarifies that references to "reviewing court" in proposed law includes the board.

Present law authorizes the commission to correct or change the assessment of any company in order to make the assessment conform to facts. A company may institute a suit to contest the correctness or legality of any corrections and changes of its assessed valuation by the commission.

Proposed law retains present law related to the authorization for a company to contest the correctness of an assessment but specifies that these suits shall be subject to provisions of present law related to appeals of the final determination of the assessed value of property by the commission.

Present law requires an assessor to annually assess and value property within their jurisdiction for purposes of ad valorem property taxes. Further provides for the assessment procedure and time line

an assessor is required to follow in order to notify a property owner of the assessed value of his property. Present law also sets forth a procedure for a property owner to contest a property's valuation including the establishment of boards of review which consists of the governing authorities in each parish.

Present law requires the commission to conduct public hearings within 10 days of receipt of the assessment lists to hear real and personal property appeals of taxpayers, tax-recipient bodies, or assessors from actions of the board of review.

Proposed law retains present law but requires a review of the correctness of an assessment by an assessor to be confined to review of evidence presented to the assessor prior to the close of the period for inspection of the assessment lists. If a taxpayer makes application to present additional evidence before the date set for hearing on the appeal and the commission finds that the additional evidence is material and there were reasons for failure to timely present the evidence to the assessor, the commission may order the assessor to take the additional evidence. Proposed law authorizes an assessor to modify the assessment because of the additional evidence and to notify the commission of modifications within 15 calendar days of receipt of the additional evidence.

Proposed law authorizes the commission to independently appraise property using provisions of present law related to determining fair market value of property when hearing an appeal addressing the correctness of an assessment of residential property subject to the homestead exemption. Further authorizes the commission to enter that appraisal into evidence for consideration on review of the correctness of the assessment.

Proposed law sets forth the actions the commission or a district court may take when reviewing the correctness of an assessment by an assessor and provides for specific reasons that may warrant the commission or the district court to reverse or modify the assessor's assessment.

Present law authorizes a taxpayer who is dissatisfied with the final determination of the commission concerning the correctness of an assessment to file a suit within 30 days of the entry of a final decision of the commission in the district court for the parish where the commission is domiciled or the district court of the parish where the property is located.

Proposed law retains present law but provides that if a taxpayer makes application to present additional evidence and it is shown that the additional evidence is material and that there were reasons for failing to timely present the evidence to the assessor, the court may order that the additional evidence be taken by the assessor. The assessor may modify the assessment as a result of the additional evidence and shall file that evidence along with notification of a modification of the assessment with the reviewing court within the deadline established by the court.

Present law establishes a procedure for claims against a political subdivision for ad valorem taxes erroneously paid to the political subdivision which includes presenting the claim to the commission within three years of the date of the payment. Present law further provides a procedure for a taxpayer who prevails in their claim for ad valorem taxes erroneously paid to present a claim to the commission to receive a refund of the payments. Present law authorizes an appeal to the district

court if an assessor or the commission refuses to approve a claim for a refund.

Proposed law retains present law but authorizes a taxpayer to also appeal to the board.

Present law establishes a procedure for a taxpayer to challenge the correctness of an assessment or a legality challenge by timely paying the disputed amount under protest to the tax collector. Present law provides for the proper party defendants who must be included in these suits.

Proposed law retains present law but provides for the proper party defendants who must be included in a correctness challenge related to appeals of actions by a board of review related to the inspection of assessment lists and notification and review of assessments and appeals of final determinations by the commission. Further provides that a legality challenge may be brought by a petition for recovery of a tax paid under protest before board which shall provide a legal remedy and right of action for a full and complete adjudication of all questions arising in connection with the tax other than the review of the correctness of value in an assessment by a parish assessor.

Present law authorizes a taxpayer, in cases of an additional assessment, to pay the additional assessment under protest without having to file an additional suit if the taxpayer shows that the principle of law involved in an additional assessment is already pending before the court for judicial determination and if the taxpayer agrees to abide by the pending court's decision.

Proposed law retains present law but specifies that the assessment under protest may also be under consideration by the board.

(Amends R.S. 47:1402(D)(2), (3)(intro. para.), and (5), 1403(B)(6)(c), 1407(3) and (7), 1418(4)(b) and (c), 1431(B), 1436(B), 1437(A), 1856(D)(2) and (3) and (G), 1857(B)(1), 1989(B) and (C), 1998(A)(1) and (D), 2132(D), 2134(B)(1) and (3), (D), and (E)(1); Adds R.S. 47:1402(D)(3)(h) and (i), 1418(4)(d), 1431(F), 1856(H), and 1857(B)(3))