

2019 Regular Session

HOUSE BILL NO. 81

BY REPRESENTATIVE ABRAHAM

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/AD VALOREM-EXEMPTION: Authorizes and provides for cooperative endeavor agreements between local governmental subdivisions and other entities that may require payments in lieu of taxes

1 AN ACT

2 To amend and reenact R.S. 33:9021(8) and (10), and 9022(1) and to enact R.S. 33:2759.1,
3 relative to ad valorem tax exemptions; to provide with respect to payments in lieu
4 of taxes pursuant to certain cooperative endeavor agreements; to provide relative to
5 procedures for the validity of certain cooperative endeavor agreements; to provide
6 for cooperative endeavor agreement approval; to provide for limitations and
7 requirements; to provide for definitions; to provide for effectiveness; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:9021(8) and (10), and 9022(1) are hereby amended and reenacted
11 and R.S. 33:2759.1 is hereby enacted to read as follows:

12 §2759. Cooperative endeavor agreements authorizing payments in lieu of ad
13 valorem taxes

14 A. One or more local governmental subdivisions or any other entities having
15 taxing authority may enter into a joint or separate cooperative endeavor agreement
16 that provides for payments in lieu of ad valorem taxes imposed by a taxing authority
17 that is a party to the cooperative endeavor agreement, with owners of property
18 eligible for the property tax exemption provided for manufacturing establishments
19 as described in Article VII, Section 21(F) of the Constitution of Louisiana.

1 (1) Cooperative endeavor agreements may be entered into by local
2 governmental subdivisions or other taxing authorities hereinafter referred to
3 collectively as "taxing authority", that are parties to the cooperative endeavor
4 agreement, only after approval, evidenced by a resolution of the taxing authority or
5 letter by the sheriff, adopted by a majority of the following:

6 (a) The parish governing authority representing the parish and all parish
7 taxing authorities located outside the boundary of any municipality that receives a
8 millage.

9 (b) The school board.

10 (c) The municipal governing authority, representing municipalities and all
11 municipal taxing authorities that receive a millage.

12 (d) The sheriff.

13 (2) Prior to granting approval for a taxing authority to enter into a
14 cooperative endeavor agreement, a public hearing shall be conducted by the parish
15 and municipal governing authorities, the school board, and the sheriff. Notice of the
16 hearing shall be published in the official journal of the applicable taxing authority
17 at least once, no later than fourteen days prior to the hearing, or if there is no official
18 journal, in a newspaper having general circulation therein. The notice shall inform
19 the public where a copy of the draft cooperative endeavor agreement may be
20 obtained and the time and place of the hearing.

21 (3) Prior to any public hearing, the assessor for the parish where the property
22 is located shall be consulted in connection with the negotiation of the terms of the
23 cooperative endeavor agreement.

24 (4) The cooperative endeavor agreement shall only apply to those taxing
25 authorities who are parties to the agreement, and any non-participating taxing
26 authority shall not be bound by the agreement and its ad valorem taxes shall continue
27 to be billed and collected without regard to the provisions of this Section.

28 B. Any property subject to a cooperative endeavor agreement that requires
29 payments in lieu of ad valorem taxes shall be exempt from ad valorem taxation

1 during the term or terms of the cooperative endeavor agreement, and to the extent
2 provided for in the cooperative endeavor agreement, as authorized under Article VII,
3 Section 21(O). Cooperative endeavor agreements entered into pursuant to this
4 Section shall be for a term of not more than twenty-five years. Any cooperative
5 endeavor agreement entered into that requires payments in lieu of ad valorem taxes
6 may provide for a reduction in ad valorem taxes. All property exempted shall be
7 listed on the assessment rolls and such information shall be submitted to the
8 Louisiana Tax Commission.

9 C. Except as otherwise provided in this Section, property that has been
10 subject to a contract of exemption as provided in Article VII, Section 21(F) of the
11 Constitution of Louisiana shall be ineligible for a cooperative endeavor agreement
12 that requires payments in lieu of ad valorem taxes. Notwithstanding the foregoing,
13 an ad valorem taxing authority may negotiate and enter into a cooperative endeavor
14 agreement with a property owner for payments in lieu of ad valorem taxes during the
15 first four years of a contract of exemption allowed by Article VII, Section 21(F) of
16 the Constitution of Louisiana as set forth in this Section. Any cooperative endeavor
17 agreement negotiated during the first four years of a contract of exemption shall
18 require the property owner to pay an amount specified in the cooperative endeavor
19 agreement to offset the abatement of ad valorem taxes that was permitted during the
20 time the property was subject to a contract of exemption as provided in Article VII,
21 Section 21(F) of the Constitution of Louisiana.

22 D. Payment obligations, transferability, collection procedures which may
23 include the designation of a collector, and any other matters relating to the payment
24 and collection of payments made in lieu of ad valorem taxes shall be set forth in a
25 cooperative endeavor agreement authorized under this Section.

26 E. In order to provide a uniform, expeditious, and equitable procedure to
27 determine the validity of a cooperative endeavor agreement authorized under this
28 Section, as well as any transaction contemplated thereby, a suit to determine the
29 validity of an agreement may be filed as provided in R.S. 13:5121 et seq., in the

1 district court having jurisdiction for any party to the agreement in the same manner
 2 and as though the agreement constitutes an issuance of bonds by the taxing authority.
 3 In the case of property owners not eligible for the property tax exemption provided
 4 by Article VII, Section 21(F) of the Constitution of Louisiana, a proceeding made
 5 pursuant to the provisions of R.S. 13:5121 et seq., may only be filed following
 6 approval of the cooperative endeavor agreement by the Joint Legislative Committee
 7 on the Budget as set forth in this Section.

8 * * *

9 §9021. Findings, declarations of necessity, and purpose

10 It is hereby found and declared that:

11 * * *

12 (8) Public-private partnerships which take advantage of the special expertise
 13 and experience of representatives of the private sector and other cooperative
 14 endeavor agreements can be among the most effective programs to encourage and
 15 maintain economic development.

16 * * *

17 (10) It is in the best interest of the state of Louisiana and of its regions,
 18 parishes, and municipalities to encourage, create, and support public-private
 19 partnerships and other cooperative endeavor agreements and to permit and encourage
 20 participation by representatives of private-sector industries which may benefit from
 21 economic development programs, while providing appropriate protections for the
 22 public interest.

23 * * *

24 §9022. Definitions

25 The following terms, whenever used or referred to in this Chapter, shall have
 26 the following meaning unless a different meaning is otherwise clearly indicated in
 27 the context:

28 (1) "Cooperative endeavors" means any form of economic development
 29 assistance between and among the state, its local governmental subdivisions,

1 political corporations, public benefit corporations, the United States or its agencies,
 2 or any public or private association, corporation, or individual. The term
 3 "cooperative endeavors" shall include but not be limited to cooperative financing,
 4 cooperative development, agreements providing for payments in lieu of taxes, or any
 5 other form of cooperative economic development activity.

6 * * *

7 Section 2. This Act shall take effect and become operative if and when the proposed
 8 amendment of Article VII, Section 21 of the Constitution of Louisiana contained in the Act
 9 which originated as House Bill No. 76 of this 2019 Regular Session of the Legislature is
 10 adopted at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 81 Engrossed

2019 Regular Session

Abraham

Abstract: Authorizes a local taxing authority to enter into a cooperative endeavor agreement with a property owner that requires payments in lieu of ad valorem taxes imposed by that local taxing authority and establishes requirements concerning eligibility and approvals.

Proposed law authorizes a local governmental subdivision or other taxing authority (hereinafter "taxing authority") to enter into a cooperative endeavor agreement that provides for payments in lieu of ad valorem taxes imposed by that taxing authority, subject to the approval of the parish governing authority, the school board, the municipal governing authority and the sheriff as evidenced by the adoption of a resolution for that purpose, or in the case of a sheriff, a letter.

Proposed law requires that a public hearing be held prior to the adoption of a resolution for the approval of a cooperative endeavor agreement pursuant to proposed law. Public notice is required in the form of advertisement in the official journal of the taxing authority, or in the absence of an official journal, its local equivalent, at least once and no later than 14 days prior to the hearing. The public notice shall provide for where a copy of the draft cooperative endeavor agreement may be examined.

Proposed law requires that prior to the public hearing required by proposed law, that the assessor be consulted in connection with the negotiation of the terms of the agreement.

Proposed law provides that any property subject to an agreement shall be exempt from ad valorem taxation or may provide for a reduction in ad valorem taxes during the term of the agreement to the extent provided for in the agreement.

Proposed law provides that cooperative endeavor agreements entered into for payment in lieu of taxes shall have a term of no more than 25 years.

Proposed law provides that a cooperative endeavor agreement shall have no application to any ad valorem tax of a taxing authority which is not a party to the agreement.

Proposed law limits eligibility for the exemption to the property of a manufacturing establishment that qualifies for the industrial tax exemption.

Proposed law and proposed constitutional amendment further prohibit eligibility for this exemption for a manufacturing establishment that has had a contract for the industrial tax exemption, unless it is within the first four years of the industrial tax exemption contract.

Proposed law requires that exempt properties be listed on the assessment rolls and information concerning those properties is required to be submitted to the La. Tax Commission.

Proposed law provides that administrative provisions concerning the collection of monies due under an agreement shall be the same as those for ad valorem taxes. Further, the validity of an agreement, as well as any transaction contemplated thereby, may be determined by the filing of a suit as provided in present law, in the district court having jurisdiction for any party to the agreement in the same manner and as though the agreement constitutes an issuance of bonds by the taxing authority.

Present law provides a definition for "cooperative endeavor agreement" as a form of economic development assistance between and among the state and local governments and other entities.

Proposed law retains present law and adds "agreements providing for payments in lieu of taxes" to the definition of "cooperative endeavor agreement".

Effective if and when House Bill No.76 of this 2019 R.S. is enacted and becomes effective.

(Amends R.S. 33:9021(8) and (10), and 9022(1); Adds R.S. 33:2759.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the authority that initially approves the cooperative endeavor agreement from the taxing authority agreeing to the cooperative endeavor agreement to the parish governing authority, the school board, the municipal governing authority and sheriff mirroring the approval process for industrial tax exemptions.
2. Add a maximum term of 25 years for cooperative endeavor agreements entered into for payments in lieu of taxes.