

2020 Regular Session

SENATE BILL NO. 165

BY SENATOR ALLAIN

REVENUE DEPARTMENT. Provides uniform procedures for issuance of tax clearances.
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AN ACT

To amend and reenact R.S. 26: 80(A)(12) and (E) and 280(A)(11) and (E), R.S. 27:28(B)(3) and (J), 425(A) and (B), 426(A)(3), 427(B)(1)(e), and 447(B)(1), the introductory paragraph of R.S. 47:1678(B) and (E), 9050(B)(1) and (2), and 9060(D)(2), and to enact R.S. 27:28.1, relative to tax clearances; to provide relative to tax clearances for alcohol permits, casino operating contractors, casino employees, video draw poker, or other gaming permits, procurement contracts, lottery retailers, and vendors; to provide uniformity to tax clearances issued by the Department of Revenue; to provide relative to suitability requirements; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:80(A)(12) and (E) and 280(A)(11) and (E) are hereby amended and reenacted to read as follows:

§80. Qualifications of applicants for permits

A. Applicants for state and local permits of all kinds shall demonstrate that they meet all of the following qualifications and conditions:

* * *

1 (12) Not owe the state or the local governmental subdivisions in which the
 2 application is made any delinquent ~~sales~~ **state individual income tax or business**
 3 **taxes or applicable parish or municipal** taxes, penalties, ~~or~~ interest, **and fees**,
 4 excluding ~~items under formal appeal pursuant to applicable statutes.~~ **contested**
 5 **amounts pursuant to applicable statutes, and excluding items for which the**
 6 **Department of Revenue or the appropriate local taxing authority has accepted**
 7 **a payment schedule for the delinquent taxes. Where an assessment against an**
 8 **applicant has become final and collectible by distraint and sale, the applicant**
 9 **shall not be approved until the applicant has filed the applicable tax returns, or**
 10 **resolved the assessment, or paid or made arrangements to pay the delinquent**
 11 **tax liability. The Department of Revenue shall review a ten-year period from**
 12 **the date of application of individual income tax filings and business tax filings.**

13 * * *

14 E. If the applicant, or any other person required to have the same
 15 qualifications, does not possess the required qualifications, the permit may be
 16 denied; however, if a ~~sales~~ tax clearance is not issued, the permit shall be denied.
 17 Nevertheless, if the ~~sales~~ tax clearance request is not processed within the time
 18 limitations provided in R.S. 26:78, the permit shall be issued if all other
 19 qualifications are met by the applicant.

20 * * *

21 §280. Qualifications of applicants for permits

22 A. Applicants for state and local permits of all kinds shall demonstrate that
 23 they meet the following qualifications and conditions:

24 * * *

25 (11) Not owe the state or the local governmental subdivisions in which the
 26 application is made any delinquent ~~sales~~ **state individual income tax or business**
 27 **taxes or applicable parish or municipal** taxes, penalties, ~~or~~ interest, **and fees**
 28 excluding ~~items under formal appeal pursuant to applicable statutes.~~ **contested**
 29 **amounts pursuant to applicable statutes, and excluding items for which the**

1 Department of Revenue or the appropriate local taxing authority has accepted
2 a payment schedule for the delinquent taxes. Where an assessment against an
3 applicant has become final and collectible by distraint and sale, the applicant
4 shall not be approved until the applicant has filed the applicable tax returns, or
5 resolved the assessment, or paid or made arrangements to pay the delinquent
6 tax liability. The Department of Revenue shall review a ten-year period from
7 the date of application of individual income tax filings and business tax filings.

8 * * *

9 E. If the applicant, or any other person required to have the same
10 qualifications, does not possess the required qualifications, the permit may be
11 denied, suspended, or revoked; however, if a ~~sales~~ tax clearance has not been issued,
12 the permit shall be denied, suspended, or revoked. Nevertheless, if the ~~sales~~ tax
13 clearance request is not processed within the time limitation provided in R.S. 26:278,
14 the permit shall be issued if all other qualifications are met by the applicant.

15 * * *

16 Section 2. R.S. 27:28(B)(3) and (J), 425(A) and (B), 426(A)(3), 427(B)(1)(e), and
17 447(B)(1), are hereby amended and reenacted and R.S. 27:28.1 is enacted to read as follows:

18 §28. Suitability standards

19 * * *

20 B. The board or division, where applicable, shall not grant a license or
21 permit, enter into a casino operating contract, or issue any other approval pursuant
22 to the provisions of this Title to any person who is disqualified on the basis of the
23 following criteria:

24 * * *

25 (3) The person is not current in filing all ~~applicable~~ **individual income tax**
26 **returns and business tax returns owed to the state of Louisiana and all applicable**
27 **parish or municipal tax returns**, and in the payment of all taxes, penalties, ~~and~~
28 interest, **and fees** owed to the state of Louisiana or any political subdivision of
29 Louisiana, excluding items under formal appeal: **pursuant to applicable statutes**

1 or being paid in compliance with the terms of an installment agreement. Where
 2 an assessment against an applicant has become final and collectible by distraint
 3 and sale, the applicant shall not be approved until the applicant has filed the
 4 applicable tax returns, or resolved the assessment, or paid or made
 5 arrangements to pay the delinquent tax liability. The Department of Revenue
 6 shall review a ten-year period from the date of application of individual income
 7 tax filings and business tax filings.

8 * * *

9 J. In the awarding of a license, permit, casino operating contract, or other
 10 approval pursuant to the provisions of this Title, the board and division may consider
 11 that the person is not current in filing all applicable **individual income tax returns**
 12 **and business** tax returns and in the payment of all taxes, penalties, ~~and~~ interest, **and**
 13 **fees** owed the Internal Revenue Service, excluding items under formal appeal
 14 **pursuant to applicable statutes or being paid in compliance with the terms of**
 15 **an installment agreement.**

16 * * *

17 **§28.1 Tax clearance for licensees, permittees, casino operating contractors, and**
 18 **casino employees or other approvals**

19 **All applicants for a license, permit, casino operating contract, or other**
 20 **approval pursuant to the provisions of this Title, shall be current in filing all**
 21 **individual income tax returns and all business tax returns and in the payment**
 22 **of all taxes, interest, penalties and fees owed to all appropriate local taxing**
 23 **authorities and the state of Louisiana, excluding items under formal appeal**
 24 **pursuant to applicable statutes or being paid in compliance with the terms of**
 25 **an installment agreement. Where an assessment against an applicant has**
 26 **become final and collectible by distraint and sale, the applicant shall not be**
 27 **approved until the applicant has filed the applicable tax returns, or resolved the**
 28 **assessment, or paid or made arrangements to pay the delinquent tax liability.**
 29 **The Department of Revenue shall review a ten-year period from the date of**

1 **application of individual income tax filings and business tax filings.**

2 * * *

3 §425. Tax clearance

4 A. Each applicant for a license or renewal of a license shall provide to the
5 division in addition to the application form, a signed ~~sales~~ tax clearance from the
6 secretary of the Department of Revenue, which clearance request shall be processed
7 within seven business days.

8 B. No license shall be granted to any applicant unless he has submitted proof
9 to the division as required in this Section, that he does not owe the state or local
10 governing authority of the parish or municipality in which the establishment is
11 located any delinquent ~~sales~~ taxes, penalties, ~~or~~ interest, **or fees**, excluding ~~items~~
12 ~~under formal appeal or protest as provided by law.~~ **contested amounts pursuant to**
13 **applicable statutes, and excluding items for which the Department of Revenue**
14 **or the appropriate local taxing authority has accepted a payment schedule of**
15 **back taxes. Where an assessment against an applicant has become final and**
16 **collectible by distraint and sale, the applicant shall not be approved until the**
17 **applicant has filed the applicable tax returns, or resolved the assessment, or**
18 **paid or made arrangements to pay the delinquent tax liability. The Department**
19 **of Revenue shall review a ten-year period from the date of application of**
20 **individual income tax filings and business tax filings.**

21 * * *

22 §426. Affidavit application for three machine locations

23 A. Prior to the expiration of the license term, a licensee who is licensed under
24 the provisions of this Chapter for the placement of not more than three video draw
25 poker devices in an approved, qualified establishment shall apply for renewal of the
26 license by completing an affidavit in a form approved by the Louisiana Gaming
27 Control Board that certifies that there have been no changes in the prior qualification
28 and suitability information previously furnished to the board. This affidavit shall be
29 executed by the licensee and each person required to meet qualification and

1 suitability requirements under R.S. 27:427, provided that the licensee or person
2 previously submitted all information required by the board in its initial suitability
3 determination. Notwithstanding the above, the licensee and all persons required to
4 meet suitability shall furnish such releases, affidavits, and documents as may be
5 required by the board. Additionally, the licensee shall furnish with each renewal
6 application all of the following:

7 * * *

8 (3) A current state ~~sales~~ tax clearance ~~certificate~~. **The Department of**
9 **Revenue shall review a ten-year period from the date of application of**
10 **individual income tax filings and business tax filings.**

11 * * *

12 §427. Suitability requirements

13 * * *

14 B.(1) No person shall be granted a license under the provisions of this
15 Chapter unless the applicant has demonstrated to the board that he is suitable for
16 licensing. For purposes of this Chapter, suitability means the applicant or licensee
17 is:

18 * * *

19 (e) A person who does not owe the state or local governing authority of the
20 parish or municipality in which the establishment is located any delinquent
21 **individual income taxes or business taxes, including** sales taxes, penalties, ~~or~~
22 interest, or fees, excluding items under formal appeal **pursuant to applicable**
23 **statutes or being paid in compliance with the terms of an installment agreement**
24 ~~or protest as provided by law~~. **Where an assessment against an applicant has**
25 **become final and collectible by distraint and sale, the applicant shall not be**
26 **approved until the applicant has filed the applicable tax returns, or resolved the**
27 **assessment, or paid or made arrangements to pay the delinquent tax liability.**
28 **The Department of Revenue shall review a ten-year period from the date of**
29 **application of individual income tax filings and business tax filings.**

* * *

§447. Suitability requirements; issuance of video draw poker employee permit

* * *

B. For the purposes of this Chapter, suitable for the issuance of a video draw poker employee permit means:

(1) The applicant has met the suitability requirements provided for in R.S. 27:427(A) and R.S. 27:427(B)(1)(a), (b), (c), ~~and (d)~~, **and (e)**.

* * *

Section 3. The introductory paragraph of R.S. 47:1678(B) and (E), 9050(B)(1) and (2), and 9060(D)(2) are hereby amended and reenacted to read as follows:

§1678. Tax clearances; resale certificates; certain procurement contracts

* * *

B. Notwithstanding any other provision of law to the contrary, no contract that requires the review and approval of the central purchasing agency for the procurement of personal, professional, consulting, or social services or the purchasing of food, supplies, or major repairs shall be approved unless the chief procurement officer for the central purchasing agency has received a tax clearance from the Department of Revenue indicating the proposed contractor is current in filing all **individual income tax returns and all business** tax returns and in payment of all taxes, interest, penalties, and fees owed to the state of Louisiana. The tax clearance required by this Section shall not be required for purposes of bidding on or solicitation of a procurement contract. For purposes of this Section, the tax clearance shall be required for the approval of all procurement contracts with this state for purposes including but not limited to the following:

* * *

E. The state chief procurement officer shall provide the secretary a list of the prospective contractors that require a tax clearance for approval of a procurement contract. ~~Such~~ **The** list shall be submitted to the secretary in the manner and form prescribed by the secretary. The secretary, upon receipt, shall provide the state chief

1 procurement officer with a signed tax clearance for each applicant indicating whether
 2 the proposed contractor is current in filing all **individual income tax returns and**
 3 **all business** tax returns and in payment of all taxes, interest, penalties, and fees owed
 4 to the state of Louisiana, excluding items under formal appeal pursuant to applicable
 5 statutes or being paid in compliance with the terms of an installment agreement.
 6 Where an assessment against a proposed contractor has become final and collectible
 7 by distraint and sale, ~~such~~ **the** proposed contractor shall not be approved for a
 8 procurement contract until ~~such time as~~ the proposed contractor has filed the
 9 applicable tax returns, or resolved the assessment, or paid or made arrangements to
 10 pay the delinquent tax liability and the secretary notifies the state chief procurement
 11 officer of the payment or arrangement to pay. **The Department of Revenue shall**
 12 **review a ten-year period from the date of application of individual income tax**
 13 **filings and business tax filings.**

14 * * *

15 §9050. Lottery retailers; selection; fees; suspension, revocation, or termination of
 16 contract; purchase or lease of on-line equipment; contracts not
 17 transferable or assignable; payment of prize; sales tax exemption

18 * * *

19 B. To govern the selection of lottery retailers, the board shall, by
 20 administrative regulation, develop a list of objective criteria upon which the selection
 21 of lottery retailers shall be based. Separate criteria shall be developed to govern the
 22 selection of retailers of instant tickets and on-line retailers. In developing these
 23 criteria, the board shall consider such factors as the applicant's financial
 24 responsibility, security of the applicant's place of business or activity, integrity, and
 25 reputation; however, the board shall not consider political affiliation, activities, or
 26 monetary contributions to political organizations or candidates for any public office.
 27 The criteria shall include but not be limited to the following:

28 (1) The applicant shall be current in payment of all taxes, interest, ~~and~~
 29 penalties, **and fees** owed to any taxing political subdivision where the lottery retailer

1 will sell lottery tickets.

2 (2) Before a license is issued and before each renewal, the The applicant
3 shall be current in filing all individual income tax returns and all business
4 ~~applicable~~ tax returns and in payment of all taxes, interest, ~~and penalties, and fees~~
5 owed to the state of Louisiana, excluding items under formal appeal pursuant to
6 applicable statutes, ~~before a license is issued and before each renewal.~~ or being paid
7 in compliance with the terms of an installment agreement. Where an assessment
8 against a retailer has become final and collectible by distraint and sale, the
9 retailer shall not be approved as a lottery retailer until the retailer has filed the
10 applicable tax returns, or resolved the assessment, or paid or made
11 arrangements to pay the delinquent tax liability and the secretary notifies the
12 Louisiana Lottery Corporation of the payment or arrangement to pay. The
13 Department of Revenue shall review a ten-year period from the date of
14 application of individual income tax filings and business tax filings.

15 * * *

16 §9060. Purchase, lease, or lease-purchase of goods or services; investigation of
17 prospective vendors; disclosure requirements; prohibited contracts,
18 exceptions; vendor's performance bond, letter of credit or deposit of
19 security; liquidated damages; laws governing contracts

20 * * *

21 D. * * *

22 (2) A contract shall not be entered into with any **proposed** vendor who has
23 not first obtained a signed tax clearance from the secretary of the Department of
24 Revenue indicating that the **proposed** vendor is current in filing all ~~applicable~~
25 **individual income tax returns and all business** tax returns and in payment of all
26 taxes, interest, ~~and penalties, and fees~~ owed to the state of Louisiana, excluding
27 items under formal appeal pursuant to applicable statutes: or being paid in
28 compliance with the terms of an installment agreement. Where an assessment
29 against a proposed vendor has become final and collectible by distraint and sale,

1 the proposed vendor shall not be approved for a procurement contract until the
 2 proposed vendor has filed the applicable tax returns, or resolved the assessment,
 3 or paid or made arrangements to pay the delinquent tax liability and the
 4 secretary notifies the state chief procurement officer of the payment or
 5 arrangement to pay. The Department of Revenue shall review a ten-year period
 6 from the date of application of individual income tax filings and business tax
 7 filings.

* * *

9 Section 4. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Curry Lann.

DIGEST

SB 165 Original

2020 Regular Session

Allain

Present law requires the Dept. of Revenue to issue tax clearances for many establishments, including applicants for alcohol permits, gaming establishments, lottery retailers, and for certain procurement contracts and vendors.

Proposed law provides uniformity to tax clearances issued by the department and otherwise retains present law.

Present law (R.S. 26:80 and R.S. 26:280) prohibits applicants for alcohol permits from obtaining a permit if they owe delinquent sales taxes, penalties, or interest.

Proposed law prohibits applicants for alcohol permits from obtaining a permit if they owe delinquent individual income tax and business taxes to the state or applicable parish or municipal taxes, penalties, interest, and fees, excluding contested amounts pursuant to applicable statutes, and excluding items for which the department or the appropriate local taxing authority has accepted a payment schedule of back taxes.

Proposed law provides where an assessment against an applicant has become final and collectible by distraint and sale, the approval of an applicant is prohibited until the applicant has filed the applicable tax returns, or resolved the assessment, or paid or made arrangements to pay the delinquent tax liability.

Proposed law requires the department to review a ten-year period from the date of application of individual income tax filings and business tax filings.

Present law (R.S. 27:28) prohibits the La. Gaming Control Board from granting licenses or

permits, entering into casino operating contracts, or issuing other approvals to any person who is not current in filing all applicable tax returns and in the payment of all taxes, penalties, and interest owed to the state, excluding items under formal appeal.

Proposed law prohibits the La. Gaming Control Board from granting licenses or permits, entering into casino operating contracts, or issuing other approvals to any person who is not current in filing all individual income tax returns and business tax returns owed to the state and all applicable parish or municipal tax returns, and in the payment of all taxes, penalties, and interest, and fees owed to the state or any political subdivision, excluding items under formal appeal pursuant to applicable statutes or being paid in compliance with the terms of an installment agreement.

Proposed law requires that all applicants for a license, permit, casino operating contract, or other approval issued pursuant to the La. Gaming Control Law to be current in filing all individual income tax returns and all business tax returns and in the payment of all taxes, interest, penalties and fees owed to all appropriate local taxing authorities and the state, excluding items under formal appeal pursuant to applicable statutes or being paid in compliance with the terms of an installment agreement.

Proposed law provides where an assessment against an applicant has become final and collectible by distraint and sale, the approval of an applicant is prohibited until the applicant has filed the applicable tax returns, or resolved the assessment, or paid or made arrangements to pay the delinquent tax liability.

Proposed law requires the department to review a ten-year period from the date of application of individual income tax filings and business tax filings.

Present law (R.S. 47:1678) requires tax clearances in certain procurement contracts indicating the proposed contractor is current in filing all tax returns and in payment of all taxes, interest, penalties, and fees owed to the state.

Proposed law clarifies that the proposed contractor is required to be current in filing all individual income tax returns and all business tax returns.

Proposed law requires the department to review a ten-year period from the date of application of individual income tax filings and business tax filings.

Present law (R.S. 47:9050) requires lottery retailer applicants to be current in filing all applicable tax returns and in payment of all taxes, interest, and penalties owed to the state, excluding items under formal appeal pursuant to applicable statutes, before a license is issued and before each renewal.

Proposed law requires lottery retailer applicants to be current in filing all individual income tax returns and all business tax returns and in payment of all taxes, interest, penalties, and fees owed to the state, excluding items under formal appeal pursuant to applicable statutes or being paid in compliance with the terms of an installment agreement before a license is issued and before each renewal.

Proposed law provides where an assessment against a lottery retailer has become final and collectible by distraint and sale, the approval is prohibited until the retailer has filed the applicable tax returns, or resolved the assessment, or paid or made arrangements to pay the delinquent tax liability and the secretary notifies the La. Lottery Corporation of the payment or arrangement to pay.

Proposed law requires the department to review a ten-year period from the date of application of individual income tax filings and business tax filings.

Present law (R.S. 47:9060) prohibits contracts with any vendor who has not first obtained

a signed tax clearance from the secretary of the department indicating that the vendor is current in filing all applicable tax returns and in payment of all taxes, interest, penalties, and fees owed to the state, excluding items under formal appeal pursuant to applicable statutes.

Proposed law prohibits contracts with any proposed vendor who has not first obtained a signed tax clearance from the secretary of the department indicating that the proposed vendor is current in filing all individual income tax returns and all business tax returns and in payment of all taxes, interest, penalties, and fees owed to the state, excluding items under formal appeal pursuant to applicable statutes or being paid in compliance with the terms of an installment agreement.

Proposed law provides where an assessment against a proposed vendor has become final and collectible by distraint and sale, the approval is prohibited until the proposed vendor has filed the applicable tax returns, or resolved the assessment, or paid or made arrangements to pay the delinquent tax liability and the secretary notifies the state chief procurement officer of the payment or arrangement to pay.

Proposed law requires the department to review a ten-year period from the date of application of individual income tax filings and business tax filings.

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

(Amends R.S. 26:80(A)(12) and (E) and 280(A)(11) and (E), R.S. 27:28(B)(3) and (J), 425(A) and (B), 426(A)(3), 427(B)(1)(e), and 447(B)(1), R.S. 47:1678(B)(intro para) and (E), 9050(B)(1) and (2), and 9060(D)(2); adds R.S. 27:28.1)