

June 29, 2021

VIA HAND DELIVERY

Honorable Clay J. Schexnayder
Speaker of the House
Louisiana House of Representatives
Post Office Box 94062
Baton Rouge, Louisiana 70804-9062

RE: Veto of House Bill 562 of the 2021 Regular Session

Dear Speaker Schexnayder:

Please be advised that I have vetoed House Bill 562 of the 2021 Regular Session.

The Board of Tax Appeals is an independent agency within the Department of State Civil Service created to hear and decide disputes between taxpayers and the state or local collectors. House Bill 562 purports to be an omnibus bill addressing multiple administrative facets related to the Board of Tax Appeals. There are a few provisions of the omnibus bill that give cause for concern.

First, there is the 140% increase in the amount of the interagency transfer to the Board of Tax Appeals, Local Tax Division from the current collections of the tax under R.S. 47:302(K). House Bill 562 increases the interagency transfer from \$5,000 per fiscal year to \$12,000 per fiscal year. This in addition to the \$244,000 currently included in the annual transfer from the collections under R.S. 47:302(K), the flat 8.45% state and local use tax for purchases from catalogues and online retailers. With the creation of the Louisiana Sales and Use Tax Commission for Remote Sellers, the use tax collections have shifted from R.S. 47:302(K) and will continue to do so. The interagency transfer is now considered an actual expense of the Remote Sellers Commission so that any shortfall in the R.S. 47:302(K) collections will be covered by local sales and use tax collections of the Commission. Whether there is in fact a need for this level of increase in the amount of funding to the Board of Tax Appeals should be a part of the discussion during the development of the Executive Budget. The Division of Administration had no knowledge of this proposed 140% increase in funding for the Board of Tax Appeals, Local Tax Division.

The next area of concern with the provisions of House Bill 562 is the mandatory payment provisions related to the interagency transfers. The payments due to the Board of Tax Appeals from current collections of local sales and use tax or state sales and use tax of the Remote Sellers

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Commission “shall be made within the first thirty days of the fiscal year”. The nature of sales tax collection is monthly receipt while funding essential public services over the course of the fiscal year recognizing the limitations of monthly collections. This mandatory provision to remit the full amount of funding for the fiscal year within the first thirty days is an affront to the realities that every other agency and political subdivision face. Further, the payments are to offset what would be the filing fees paid to the Board of Tax Appeals by state and local governments over the course of the year. In essence, there is an upfront payment requirement before the year begins and no refund mechanism if the cost of services provided during the year is less than remitted.

Finally, the language in House Bill 562 appears to be an attempt at mandating the items to be included in the annual executive budget submission to the legislature. The Board of Tax Appeals is given authorization to fix the salaries of employees by administrative rule and if the rule requires the equivalent of a classified market rate adjustment, the salaries shall be included in any budget requests or recommendations. There is almost identical language in the bill related to any item funded pursuant to a written agreement and the requirement for inclusion in “any budget request or recommendation to the full extent of the funding”. The determination of the expenditures to recommend for appropriation in the budget submission is a power delegated to the Governor in the Constitution. While the Board of Tax Appeals is constitutionally vested with jurisdiction over matters related to state and local taxes and fees, it is still an agency within the Department of Civil Service and a part of the Executive Budget. Statutory provisions of this nature are an infringement on the executive budget process.

For these reasons, House Bill 562 is vetoed and returned to the House of Representatives. I look forward to considering the funding provisions as a part of the budget submission process for the Board of Tax Appeals later this year.

Sincerely,

John Bel Edwards
Governor

cc: Honorable Patrick Page Cortez
Louisiana Senate President