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The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Danielle Clapinski.

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DIGEST

SB 5 Engrossed

2023 Regular Session

Allain

Present law requires the payment under protest of the disputed amount of tax when a taxpayer challenges the correctness of an ad valorem tax assessment or the legality of an ad valorem tax assessment.

Proposed law provides that a taxpayer challenging the correctness of an assessment who has timely filed an appeal with the La. Tax Commission shall not be required to make a payment under protest or post security while the correctness challenge is pending before the commission or during an appeal of the commission's determination brought by any party other than the taxpayer.

Proposed law provides that when a taxpayer appeals the determination of the La. Tax Commission then the payment under protest or filing a rule to set bond or other security is timely if the payment is made or the rule is filed within the applicable appeal deadline.

Proposed law provides for an alternative method of providing security in lieu of a payment under protest in the case of a taxpayer filing a legality challenge with a court or the Board of Tax Appeals.

Proposed law authorizes the taxpayer, on or before the date on which the taxes are due, to file a rule to set bond or other security with the court or the board which shall be set for hearing within 30 days.

Proposed law authorizes the court or the board to order that a portion of the disputed amount be paid under protest and the balance secured by the posting of a bond or other security.

Proposed law authorizes the collector to file a reconventional demand against the taxpayer in the cause of action in which a bond or alternative security is provided and further provides that the collector may procure an appraisal or conduct discovery concerning the value and validity of security offered.

Proposed law requires that the posting of a bond or other security for ad valorem tax challenges shall be consistent with the provisions for providing security in connection with a suspensive appeal under the Code of Civil Procedure.

Proposed law does not apply to amounts of tax that are not in dispute and are not the subject of a correctness or legality challenge.

Present law provides that interest is calculated at a rate from the date the notice of intention to file suit for recovery of taxes was given to the officer until the date the taxes are paid.

Proposed law provides that interest is calculated at a rate from the date the taxes were due under R.S. 47:2127 until the date the taxes are paid.

Effective August 1, 2023.

(Amends R.S. 47:1857(B)(1) and (2), 1998(A)(2) and (B)(3), 2134(B)(1) and (4), (C)(4), (D)(3), and (E); adds R.S. 47:1989(G) and 2134(F))

Summary of Amendments Adopted by Senate

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

1. Adds provision that allows taxpayers to timely file a rule to set bond or other security pursuant to present law in addition to paying the tax due under protest.
2. Clarifies that interest runs from the date the taxes are due to the date the taxes are paid.
3. Provides timelines by which a rule to set bond shall be filed.
4. Limits when a collector is authorized to conduct discovery concerning the value of validity to situations when "other security" as defined in law is provided in lieu of a payment under protest or providing a bond.
5. Makes technical changes.