

2024 Regular Session

SENATE BILL NO. 191

BY SENATOR REESE

TAX/TAXATION. Provides relative to the enforcement and adjudication of state and local taxes and the Board of Tax Appeals. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(7)(b), 1402(E)(1), 1403(A)(5) and (B)(4),  
3 1417(C)(3), and 1565(C)(2), relative to the enforcement and adjudication of state and  
4 local taxes and the Board of Tax Appeals; to provide with respect to disputes  
5 concerning taxes; to provide for tax administration; to provide with respect to certain  
6 revenues dedicated to the board; to provide relative to ad hoc judges; to provide  
7 relative to remote witness testimony; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:302(K)(7)(b), 1403(A)(5) and (B)(4), and 1565(C)(2) are hereby  
10 amended and reenacted to read as follows:

11 §302. Imposition of tax

12 \* \* \*

13 K. An additional tax shall be levied as follows:

14 \* \* \*

15 (7)

16 \* \* \*

17 (b) The amount **of local tax** specified in Item (a)(i) of this Paragraph as

1 transferred to the Department of State Civil Service, Board of Tax Appeals, **Local**  
 2 **Tax Division** shall be increased by fifty-five thousand dollars on July 1, 2015, by  
 3 thirty-two thousand dollars on July 1, 2016, and by five thousand dollars on the first  
 4 day of each of the subsequent fiscal years. The amounts specified in this  
 5 Subparagraph and Subparagraph (a) of this Paragraph shall be transferred by the  
 6 secretary within the first thirty days of each fiscal year and the Department of State  
 7 Civil Service, Board of Tax Appeals, may retain all funds that are transferred as  
 8 directed in this Subparagraph and Subparagraph ~~(b)~~**(a)** of this Paragraph.

9 \* \* \*

10 §1402. Membership of board; qualifications; appointment; term; vacancy; salary

11 \* \* \*

12 E. (1) Notwithstanding any provision of law to the contrary, a board member  
 13 shall continue to serve until a successor has been appointed. No member may be  
 14 removed except by induction into office of a successor, duly appointed and qualified  
 15 pursuant to this Section, upon expiration of a term of office or for good cause shown,  
 16 which shall be subject to judicial review; **provided that good cause shall mean**  
 17 **those causes enumerated for removal by suit pursuant to Article X, Section 25**  
 18 **of the Constitution of Louisiana, or its successor.**

19 \* \* \*

20 §1403. Designation of officers; domicile; quorum; seal

21 A.

22 \* \* \*

23 (5) In the event of a vacancy lasting more than ~~ninety~~ **thirty** days **or if the**  
 24 **Local Tax Judge submits a written request for assistance,** the supreme court is  
 25 authorized to make assignments or appointments **for a Local Tax Judge ad hoc** in  
 26 the same manner as authorized pursuant to Article V, Section 5(A) of the  
 27 Constitution of Louisiana, ~~and,~~ **Notwithstanding any provisions of law to the**  
 28 **contrary,** any **sitting or retired** ad hoc judge so assigned shall receive the  
 29 compensation specified in this Chapter for ad hoc appointment ~~due to refusal~~

1 pursuant to this Paragraph.

2 B.

3 \* \* \*

4 (4) ~~With the consent of all parties or upon the request of the taxpayer in a~~  
5 ~~pre-trial matter involving only a state collector, the~~ The board may allow for a  
6 hearing to be held by telephone, video conference, or similar communication  
7 equipment, including the administration of oaths in proceedings.

8 \* \* \*

9 §1417. Recusal; board members

10 \* \* \*

11 C.

12 \* \* \*

13 (3) Upon entry of an order of recusal concerning ~~the board member presiding~~  
14 ~~over~~ a case in the Local Tax Division, the case shall be reassigned to be heard by an  
15 ad hoc judge appointed by the supreme court pursuant to R.S. 47:1403(A)(5)  
16 with any other board member eligible for that appointment in accordance with  
17 Paragraph (2) of this Subsection, or, upon a joint motion of all parties it may either  
18 be heard pursuant to Paragraph (1) of this Subsection or be transferred to the district  
19 court of proper venue.

20 \* \* \*

21 §1565. Notice of assessment and right to appeal

22 \* \* \*

23 C.

24 \* \* \*

25 (2)(a) The determination of an error of fact or of law under this Subsection  
26 shall be solely that of the secretary except as otherwise provided in this  
27 Subsection, and no action against the secretary with respect to the determination  
28 shall be brought in any court, ~~nor shall any appeal relating thereto be brought before~~  
29 ~~the Board of Tax Appeals~~, and no court shall have jurisdiction of any such action,

1 nor the Board of Tax Appeals ~~except as provided in this Subsection~~ of any such  
2 ~~appeal~~; it being the intent of this Subsection only to permit the secretary to correct  
3 manifest errors of fact or in the application of the law made by the secretary in  
4 making the assessment; however, all reductions of assessments based on such errors,  
5 except estimated assessments made due to the failure of the taxpayer to file a proper  
6 tax return, must be approved and signed by the secretary, and the assistant secretary  
7 or the deputy assistant secretary ~~of~~ **supervising** the office of legal affairs of the  
8 Department of Revenue, and shall then be ~~approved~~ **submitted for review** by the  
9 Board of Tax Appeals and **if approved shall be** signed by the chairman thereof.  
10 Estimated assessments made due to the failure of the taxpayer to file a proper tax  
11 return may be corrected by the acceptance of the proper tax return and must be  
12 approved by the secretary or his designee.

13 **(b) A person may petition the Board of Tax Appeals within thirty days**  
14 **of receipt of a notice related to a seizure, levy, garnishment, offset, or other**  
15 **collection action, whether occurred or intended, related to an assessment that**  
16 **qualifies for relief pursuant to Paragraph (1) of this Subsection. If the board**  
17 **finds clear and convincing evidence that the otherwise final assessment qualifies**  
18 **for relief pursuant to Paragraph (1) of this Subsection it shall order that the**  
19 **matter be referred to the secretary for review pursuant to provisions of this**  
20 **Subsection, and the assessment shall not be collectible until such time as the**  
21 **assessment has been redetermined pursuant to this Subsection. The secretary**  
22 **shall submit any redetermination to the board for approval in the same manner**  
23 **as provided in Subparagraph (a) of this Paragraph.**

24 **(c) A person who has been the subject of a collection action related to an**  
25 **otherwise final assessment that qualifies for relief pursuant to this Subsection**  
26 **may file a refund claim with the secretary within the applicable prescriptive**  
27 **period pursuant to R.S. 47:1623 following the secretary's receipt of the funds.**  
28 **Any refund authorized by this Subparagraph shall be additionally limited to**  
29 **any amount actually collected by the secretary that was not actually due**

1           considering a redetermination made pursuant to this Subsection due to the  
 2           petition filed pursuant to this Paragraph.

3   \*           \*           \*

4           Section 2. This Act shall become effective upon signature by the governor or, if not  
 5           signed by the governor, upon expiration of the time for bills to become law without signature  
 6           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 7           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 8           effective on the day following such approval.

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

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#### DIGEST

SB 191 Engrossed

2024 Regular Session

Reese

Present law requires the secretary of the Department of Revenue to provide an interagency transfer within the first 30 days of the fiscal year out of current collections of the tax collected to the Department of Civil Service, Board of Tax Appeals to be expended exclusively for the purposes of the Local Tax Division.

Proposed law specifies that the distribution of local tax is transferred to the Local Tax Division by the Department of Revenue and otherwise retains present law.

Present law provides that no board member shall be removed except by induction of a qualified, appointed successor, upon expiration of term, or for good cause shown.

Proposed law provides that the term of a board member for good cause shall mean those causes enumerated for removal by suit pursuant to Article X, Section 25 of the Constitution of Louisiana, or its successor.

Present law provides that in the event of a vacancy on the local tax judge for the Board of Tax Appeals lasting more than 90 days, the supreme court is authorized to make assignments or appointments in the same manner as authorized by present constitution, any ad hoc judge assigned shall receive the compensation specified for an ad hoc appointment due to recusal.

Proposed law provides that in the event of a vacancy lasting more than 30 days or if the Local Tax Judge submits a written request for assistance, the supreme court is authorized to make assignments or appointments for an ad hoc Local Tax Judge in the same manner as authorized by the present constitution. Any sitting or retired ad hoc judge assigned shall receive the compensation specified in law for an ad hoc appointment pursuant to proposed law.

Present law provides that the Board of Tax Appeals with the consent of all parties or upon the request of the taxpayer in a pre-trial matter involving only a state collector, may allow for a hearing held by telephone, video conference, or similar communication equipment, including the administration of oaths in proceedings.

Proposed law provides that the Board of Tax Appeals may allow for a hearing to be held by telephone, video conference, or similar communication equipment without obtaining the consent of all parties and otherwise retains present law.

Present law provides that a case in the Local Tax Division shall be reassigned upon entry of an order of recusal of a board member presiding over the case.

Present law provides that reductions of assessments based on an error of fact or of law shall be approved and signed by the secretary of the Department of Revenue, and the assistant secretary or the deputy assistant secretary of the office of legal affairs, and then approved

and signed the chairman by the Board of Tax Appeals.

Proposed law provides that approvals of reductions of assessments based on an error of fact shall be approved and signed by the secretary and signed by the assistant secretary or deputy assistant secretary supervising the office of legal affairs, and then submitted for review to the Board of Tax Appeals, and if approved signed by the board's chairman.

Proposed law authorizes a person to petition the Board of Tax Appeals within 30 days of the first receipt of a notice related to a seizure, levy, garnishment, offset, or other collection action, whether occurred or intended, related to an assessment based error of fact or error of law. If the board finds clear and convincing evidence that the final assessment qualifies for relief, it shall order that the matter be referred to the secretary for review. The assessment will become collectible until the assessment has been redetermined. Requires the secretary to submit any agreed redetermination to the board for approval.

Proposed law provides that a person who has been the subject of a collection action related to a final assessment that qualifies for relief may file a refund claim with the secretary within the applicable prescriptive period in law following the secretary's receipt of the funds.

Proposed law provides that the refund of a person who has been the subject of a collection action related to a final assessment that qualifies for relief is limited to the amount actually collected by the secretary.

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

(Amends R.S. 47:302(K)(7)(b), 1402(E)(1), 1403(A)(5) and (B)(4), 1417(C)(3), and 1565(C)(2))

#### Summary of Amendments Adopted by Senate

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

1. Clarifies provisions relating to the removal of a board member of the Board of Tax Appeals.
2. Provides for appointment of an ad hoc judge appointed by the supreme court.
3. Provides for petition to the Board of Tax Appeals within 30 days of a notice related to collection action.
4. Provides the secretary of the Department of Revenue shall submit any redetermination to the Board of Tax Appeals for approval.
5. Clarifies any refund authorized shall be limited to any amount actually collected by the secretary of the Department of Revenue.
6. Makes technical amendments.