

DIGEST

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SB 191 Reengrossed

2024 Regular Session

Present law requires the secretary of the Dept. of Revenue (DOR) 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, hereinafter "board", to be expended exclusively for the purposes of the Local Tax Division.

Proposed law retains present law with respect to the interagency transfer of local taxes to the board but changes present law by specifying that the distribution of local tax is transferred to the *Local Tax Division* by DOR and that the amount of local sales taxes transferred to the board will increase when necessary to conform to amounts appropriated by 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 good cause shall mean those causes enumerated for removal by suit pursuant to present constitution (Article X, Section 25 of the Constitution of La., or its successor).

Present law provides that in the event of a vacancy on the board lasting more than 90 days, the supreme court is authorized to make assignments or appointments in the same manner as authorized by present constitution, and 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.

Proposed law authorizes the chairman of the board to designate either of the following as a hearing judge:

- (1) Any person who has been appointed as an ad hoc judge pursuant to the provisions of present and proposed law.
- (2) With the approval of the supreme court, any judge eligible for assignment pursuant to present constitution (Article V, Section 5 of the Constitution of La.) who is considered an ad hoc judge pursuant to present and proposed law.

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

Proposed law authorizes the board to 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 authorizes the board to make expenditures, including expenditures for personal services and books, necessary to efficiently execute the functions vested in the board. All expenditures shall be paid out of any monies appropriated to the board for those purposes. Present law limits the board's expenditure of self-generated revenue from local cases exclusively for its Local Tax Division.

Proposed law retains present law but further limits all funds held in the board's Escrow Account to be used for paying the board's expenses and for the payment of judgments pursuant to final, non-appealable judgment in accordance with 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 DOR, and the assistant secretary or the deputy assistant secretary of the office of legal affairs, and then approved and signed by the chairman of the board.

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, and if approved signed by the board's chairman.

Proposed law authorizes a person to petition the board 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.

Present law provides that when a final decision or judgment of the board contains a finding that the taxpayer is liable for the payment of an amount of tax, interest, and penalty, the amount shall be paid by the taxpayer upon notice and demand from the collector, and shall be collectible by distraint and sale as provided in present law. Further requires a collector to promptly make a refund when a final decision or judgment of the board contains a finding that the taxpayer is entitled to receive a refund or credit of an overpayment.

Proposed law retains present law but also requires a local collector to comply with the terms of a final judgment of the board.

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)(3) and (5) and (B)(4), 1406, 1417(C)(3), 1437(B), and 1565(C)(2); Adds R.S. 47:1403(B)(7))

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.
2. Provides for appointment of an ad hoc judge appointed by the supreme court.
3. Provides for petition to the Board within 30 days of a notice related to collection action.

4. Provides the secretary of DOR shall submit any redetermination to the Board for approval.
5. Clarifies any refund authorized shall be limited to any amount actually collected by the secretary of DOR.
6. Makes technical amendments.

Senate Floor Amendments to engrossed bill

1. Technical legislative bureau amendment

Summary of Amendments Adopted by House

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

1. Add provision to provide that the amount of local tax that is annually transferred to the board through interagency transfer will increase if the local tax appropriated to the board increases.
2. Delete duplicative language addressing the authority of board members in the event of a vacancy on the board.
3. Add provisions for circumstances wherein the chairman of the board may appoint an ad hoc judge.
4. Add requirement that all funds held in the board's Escrow Account must be used by the board to pay expenses and pay judgments pursuant to final non-appealable judgments.
5. Add requirement that all collectors must comply with the terms of a final judgment.
6. Make technical changes.