

RÉSUMÉ DIGEST

ACT 307 (SB 191)

2024 Regular Session

Reese

Existing 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 Dept. of Civil Service, Board of Tax Appeals, hereinafter "board", to be expended exclusively for the purposes of the Local Tax Division.

New law retains existing law with respect to the interagency transfer of local taxes to the board but changes existing 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.

Existing 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.

New law further provides that good cause shall mean those causes enumerated for removal by suit pursuant to the existing constitution (Article X, Section 25 of the Constitution of La., or its successor).

Existing law provides the member appointed hearing judge of the Local Tax Division of the board shall exercise all jurisdiction, authority, and powers of the board and its chairman.

New law retains existing law.

Prior law authorized the remainder of the board to temporarily exercise the functions of the hearing judge of the Local Tax Division but prohibited the board from hearing and rendering judgments during a vacancy in his appointment.

New law repeals prior law.

Prior law provided 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 the existing constitution, and any ad hoc judge assigned shall receive the compensation specified for an ad hoc appointment due to recusal.

New 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 existing constitution. Any sitting or retired ad hoc judge assigned shall receive the compensation specified in law for an ad hoc appointment pursuant to new law.

New 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.
- (2) With the approval of the supreme court, any judge eligible for assignment pursuant to the existing constitution (Article V, Section 5 of the Constitution of La.) who is considered an ad hoc judge.

Prior law authorized 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.

New 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.

Existing 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. Existing law limits the board's expenditure of self-generated revenue from local cases exclusively for purposes of its Local Tax Division.

New law retains existing 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 existing law.

Prior law provided 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.

New law requires a case to be heard by an ad hoc judge appointed by the supreme court if there is a recusal in a case in the Local Tax Division.

Prior law authorizes the secretary to correct manifest or obvious errors of fact or in application of the law made by the secretary in making the assessment by submitting a reduction of the assessment based on the error which must be approved and signed by the secretary, and the assistant secretary or the deputy assistant secretary of the office of legal affairs of the Dept. of Revenue. Further requires the reduction to be approved by the board and signed by the chairman.

New law requires the reduction of the assessment based on the error to be approved and signed by the secretary, and the assistant secretary or the deputy assistant secretary supervising the office of legal affairs of the Dept. of Revenue and then submitted to the board for review and if approved, signed by the chairman.

New 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.

New 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.

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

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

New law provides 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.

New law deletes duplicative language addressing the authority of board members in the event of a vacancy on the board.

New law provides for circumstances wherein the chairman of the board may appoint an ad hoc judge.

New law requires 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 and non-appealable judgments.

New law requires that all collectors must comply with the terms of a final judgment.

Effective May 28, 2024.

(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))