

First Extraordinary Session, 2005

SENATE BILL NO. 104 (Substitute of Senate Bill No. 14 by Senator Schedler)

BY SENATOR SCHEDLER

TAX/AD VALOREM. Changes assessment and collection procedures for property damaged or destroyed by disaster or emergency declared by the governor.

1 AN ACT

2 To amend and reenact R.S. 47:1993(D) and 2101(A)(1) and to enact R.S. 47:1978.1, relative
3 to the assessment of land and property damaged or destroyed during a disaster or
4 emergency declared by the governor; to provide for assessment procedures and for
5 collection of tax on such property; to provide for filing dates of tax rolls for tax year
6 2005 (2006 Orleans); to provide for deadlines for payment of ad valorem taxes for
7 tax year 2005 (2006 Orleans); and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:1993(D) and 2101(A)(1) are hereby amended and reenacted and
10 R.S. 47:1978.1 is hereby enacted to read as follows:

11 **§1978.1. Listing, assessing, and collecting ad valorem taxes on land and**
12 **property damaged or destroyed during a disaster or emergency**
13 **declared by the governor**

14 **A.(1) Whenever lands or other property, including buildings, structures,**
15 **or personal property are damaged or destroyed during a disaster or emergency**
16 **declared by the governor, the governing bodies of the taxing authorities in**
17 **which such lands or other property are situated, or in the case of a parish with**

1 a population in excess of four hundred fifty thousand according to the most
2 recent federal decennial census, the governing body of such parish for such
3 lands and damaged or destroyed property situated within the jurisdiction of
4 such parish, may by resolution or ordinance adopted by such governing body
5 in the manner provided for in Paragraph (2) of this Subsection direct the
6 assessor of property within the jurisdiction of the taxing authority or such
7 parish, and the collector to assess and collect the taxes of the taxing authority
8 or the taxes of such parish for the tax period in which the damage has occurred
9 in the manner provided for in either Subsection B or Subsection C of this
10 Section.

11 (2)(a) The ordinance or resolution may be adopted by two-thirds vote of
12 the total membership of the governing body of the taxing authority or the parish
13 provided for in Paragraph (1) of this Subsection but only after a public hearing
14 held in accordance with the open meetings law; however, in addition to any
15 other requirements of the open meetings law, public notice of the time, place,
16 and subject matter of such hearing shall be published on two separate days no
17 less than thirty days before the public hearing. Such public notice shall be
18 published in the official journal of such governing body, and another newspaper
19 with a larger circulation within the taxing authority or parish provided for in
20 Paragraph (1) of this Subsection than the official journal of the taxing authority
21 or such parish, if there is one.

22 (b) The notice shall contain a statement that the taxing authority or
23 parish provided for in Paragraph (1) of this Subsection intends to consider at
24 the hearing the manner in which damaged or destroyed property shall be
25 assessed and taxes collected and such other requirements as prescribed by
26 regulations of the Louisiana Tax Commission, which requirements shall
27 include:

28 (i) Prominent placement in the newspaper in a section other than the
29 classified advertisement or public notice section.

1 (ii) Formatting in a box with a bolded outline.

2 (iii) A size of not less than two inches by four inches.

3 (iv) Print in bold face type.

4 (v) The publication in the official journal as required by this
5 Subparagraph shall be provided by the official journal at a charge not in excess
6 of the rates assessed and charged for regular commercial advertising.

7 (c) Failure to timely accomplish such publication shall make the adoption
8 at such a hearing of any resolution or ordinance providing for the adoption of
9 additional or increased millage null, void, and of no effect.

10 (d) Each taxing authority or parish provided for in Paragraph (1) of this
11 Subsection required to publish public notice pursuant to this Subparagraph
12 shall also provide to the assessor in its parish or district as the case may be, the
13 date, time and place of its pending hearing. Each assessor shall maintain a list
14 of each of the pending hearing dates in his parish or district as the case may be
15 and may publish such hearing dates on his website.

16 (e) In addition to the requirements for publication provided for in this
17 Subparagraph, the taxing authority or parish provided for in Paragraph (1) of
18 this Subsection shall issue a press release to newspapers with substantial
19 distribution within the parish of the tax recipient's jurisdiction or within the
20 parish provided for in Paragraph (1) of this Subsection and to area broadcast
21 media.

22 B.(1) The governing body of a taxing authority or parish provided for in
23 Subsection A of this Section may direct the assessor to assess such lands or
24 property for the year in which the damage has occurred at the percentage of
25 fair market value provided in the Constitution of Louisiana by taking into
26 consideration all the damages to the lands or other property and the
27 depreciation of the value of such land or other property caused by the disaster
28 or emergency described in this Section. Notwithstanding other provisions of
29 law to the contrary, the assessor shall make these assessments whether the time
30 fixed by law for filing assessment rolls has elapsed or not.

1 **(2)(a) For purposes of this Subsection and R.S. 47:1978, the assessments**
2 **of damaged property shall be reflected on the general assessment roll if at the**
3 **time of the events described in Subsection A of this Section, the general**
4 **assessment roll has not been certified by the assessor to the local board of**
5 **review. The procedures for public inspection of the general assessment rolls,**
6 **review of assessments by the board of review, and certification of the assessment**
7 **rolls to the Louisiana Tax Commission shall be followed. The rolls shall be open**
8 **for public inspection for a period of fifteen days, and the assessor shall advertise**
9 **such public exposure dates and dates for board of review as provided for by**
10 **existing law.**

11 **(b) If at the time of the events described in Subsection A of this Section,**
12 **the general assessment rolls have already been certified by the assessor to the**
13 **local board of review, the assessor shall prepare a supplemental roll of land or**
14 **property damaged as the result of the events described in this Section, which**
15 **rolls shall be filed in the same manner as provided for in this Section for general**
16 **assessment rolls, and such assessments shall be subject to the same rights as to**
17 **contest as to assessments generally.**

18 **(c) If, after the filing of the assessment roll with the Louisiana Tax**
19 **Commission, the assessor requests a change order as a result of the events**
20 **described in this Section, such request for change order shall be signed by the**
21 **assessor or his deputy and shall contain a declaration that the property owner**
22 **agrees to the change in the assessment and that the property owner waives any**
23 **right to further contest the correctness of the assessment. In the event the**
24 **request for change order is not agreed upon by the assessor and the property**
25 **owner, the assessor shall mail to the property owner the assessor's**
26 **determination of the assessed value of the property. If the property owner is**
27 **dissatisfied with the assessor's determination of assessed value, the property**
28 **owner shall have fifteen days from the mailing of the notification by the assessor**
29 **of the determination of assessed value to contest the assessment to the Louisiana**
30 **Tax Commission. All decisions by the Louisiana Tax Commission are final**

1 unless appealed to the district court within fifteen days from the mailing of the
2 decision of the Louisiana Tax Commission. If the assessor requests change
3 orders in lieu of an original assessment roll or supplemental roll under this
4 Section, the assessor shall submit an amended grand recap reflecting the
5 changes in assessed values requested in such change orders.

6 (3) The assessment provided for in this Section and R.S. 47:1978 shall
7 not be considered an implementation of the reappraisal and valuation
8 provisions of Article VII, Section 18(F) of the Constitution of Louisiana, nor
9 shall such assessment result in the adjustment of ad valorem tax millages
10 pursuant to Article VII, Section 23 of the Constitution of Louisiana.

11 C.(1)(a) As an alternative to Subsection B, the governing body of a taxing
12 authority or parish provided for in Subsection A of this Section may direct that
13 the ad valorem taxes due for the year in which property within its jurisdiction
14 is damaged or destroyed will, upon application of the property owner, be
15 prorated.

16 (b) Proration shall be calculated as follows: the ad valorem taxes
17 resulting from the assessed valuation for the year in which the damage or
18 destruction occurred shall be multiplied by a factor to determine the ad valorem
19 taxes owed for that year. The factor shall be the number of months during the
20 tax year that the property was habitable, divided by twelve. For the purposes
21 of this calculation, a fraction of a month is to be considered a month.

22 (2) If a taxing authority or parish provided for in Subsection A of this
23 Section chooses proration, any property owner seeking to have his ad valorem
24 tax bill prorated shall notify the collector in writing, providing a request to have
25 his property tax bill prorated, including a description of the damage and the
26 number of whole months in which the property was uninhabitable due to the
27 damage during the tax year at issue.

28 (3) The ad valorem property tax bill of the taxing authority or parish
29 provided for in Subsection A of this Section provided to each taxpayer shall
30 include the following statement:

1 “If the property set forth herein was severely damaged or destroyed,
 2 rendering the property uninhabitable for a portion of the year for which these
 3 taxes are due, you MAY be entitled to have your tax bill reduced. Contact the
 4 tax collector for details on obtaining a reduction.”

5 * * *

6 §1993. Preparation and filing of rolls by assessor

7 * * *

8 D.(1) Each tax assessor, parish of Orleans excepted, shall complete and file
 9 the tax roll of his parish on or before the ~~15th~~ fifteenth day of November in each
 10 calendar year. The officer having custody of the assessor's salary and expense fund
 11 shall withhold from the assessor's salary five dollars ~~(\$5.00)~~ for each day of delay
 12 in the filing of the roll after such date.

13 (2) In accordance with the provisions of Article VII, Section 25(F) of the
 14 Constitution of Louisiana, tax rolls for 2005 and tax rolls for 2006 for Orleans,
 15 shall be completed and filed on or before March 31, 2006. Nothing in this
 16 Subsection shall prohibit the completion and filing of tax rolls prior to March
 17 31, 2006.

18 * * *

19 §2101. Time for payment; notice when due

20 A.(1)(a) All taxes shall be collected in the calendar year in which the
 21 assessment thereof is made, and they shall be designated as the "taxes for the year
 22 ___", accordingly as they are collectible, and the taxes assessed in each year shall
 23 be due in that calendar year as soon as the tax roll is filed in the office of the recorder
 24 of mortgages, except taxes on movable property in the event of a bulk sale under the
 25 provisions of the Bulk Sales Law, and they shall be paid on or before the thirty-first
 26 day of December in each respective year in order to avoid the notice, advertisement,
 27 and sale required by Article VII, Section 25 of the Louisiana Constitution. In the
 28 event of a bulk sale of movable property under the provisions of the Bulk Sales Law,
 29 all taxes due on movable property shall be due ten days prior to completion of the
 30 transfer or the payment of any consideration therefor and shall be payable upon

1 completion of the bulk sale.

2 **(b) Notwithstanding anything herein to the contrary and in accordance**
 3 **with the provisions of Article VII, Section 25(F) of the Constitution of**
 4 **Louisiana, the deadline for payment of ad valorem taxes for 2005, 2006 for**
 5 **Orleans is hereby extended, and such taxes shall be paid no later than forty-five**
 6 **days after certification and approval of the tax rolls by the Louisiana Tax**
 7 **Commission, or December 31, 2005, whichever date is later.**

8 * * *

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

DIGEST

Schedler (SB 104)

Proposed law authorizes the governing bodies of the taxing authorities in which lands or other property damaged or destroyed during a disaster or emergency declared by the governor are situated, or in the case of a parish with a population in excess of 450,000 according to the most recent federal decennial census, the governing body of such parish for such lands and damaged or destroyed property situated within the jurisdiction of such parish, to direct the assessor of the property within the jurisdiction of the taxing authority or such parish and the collector to assess and collect the taxes of the taxing authority or such parish for the tax period in which the damage has occurred in either of the two manners provided in the proposed law.

The action is taken by resolution or ordinance adopted by two-thirds vote of the total membership of the governing body but only after a public hearing held in accordance with the open meetings law and with public notice of the time, place, and subject matter of such hearing to be published on two separate days no less than 30 days before the public hearing. The public notice is required to be published in the official journal of the taxing authority, and another newspaper with a larger circulation within the taxing authority than the official journal of the taxing authority, if there is one. Provides for requirements for the notice.

Proposed law authorizes the governing body to direct the assessor to assess land or property damaged or destroyed during a disaster or emergency declared by the governor for the year in which the damage has occurred by taking into consideration all damages to land or property and the depreciation of such land or property caused by the disaster or emergency. Provides that the assessments shall be made whether the time provided by law for filing assessment rolls has elapsed or not. Provides that the assessments are subject to review and filing requirements as provided in present law or authorizes assessors to prepare supplemental rolls of damaged or destroyed property. Provides that if the assessor has completed public exposure and the board of review of the assessment roll for the year, the assessor may issue change orders for the assessment of damaged or destroyed property in lieu of existing roll or filing supplemental roll. An owner who is dissatisfied with the determination of value has 15 days to appeal to the La. Tax Commission whose decisions are final unless appealed within 15 days. Requires assessors to submit an amended grand recap reflecting changes in assessed values requested in change orders.

Present constitution provides that the total amount of ad valorem taxes collected by any taxing authority in the year in which the reappraisal and valuation provisions of Art. VII, Sec. 18(F) [requiring reappraisals at intervals of not more than 4 years] are implemented

shall not be increased or decreased because of a reappraisal or valuation above or below the total amount of such taxes collected in the year preceding implementation of the reappraisal and valuation. To accomplish this result, the constitution requires each affected taxing authority, in the year in which Section 18 is implemented, to adjust millages upwards or downwards without regard to millage limitations contained in the constitution without further voter approval.

Proposed law prohibits the assessment because of damage or destruction provided in the proposed law from being considered an implementation of the reappraisal and valuation provisions of Art. VII, Sec. 18(F), nor can such assessment result in the adjustment of ad valorem tax millages pursuant to Art. VII, Sec. 23 of the constitution as set forth above.

Proposed law, as an alternative, authorizes the governing bodies to direct assessors and collectors by adopting an ordinance or resolution in the manner provided for above to require the property taxes due for the year in which the property is damaged or destroyed by man-made or natural disaster such as fire, flood, tornado, or hurricane to be prorated. The required proration is to be calculated by multiplying the assessed valuation for the year of damage or destruction by a factor which is the number of months during the tax year that the property was habitable (including fractions of a month) divided by 12. In order to get proration, the property owner must request the proration in writing and include a description of the damage and the number of whole months in which the property was uninhabitable due to the damage during the tax year at issue.

Requires the property tax bill provided to each tax payer to include the following statement:

“If the property set forth herein was severely damaged or destroyed, rendering the property uninhabitable for a portion of the year for which these taxes are due, you MAY be entitled to have your tax bill reduced. Contact the tax collector for details on obtaining a reduction.”

Present law requires each assessor to complete and file the tax roll for his parish on or before November 15 of each calendar year.

Proposed law specifies that the rolls for 2005 (2006 Orleans) shall be completed and filed before March 31, 2006.

Proposed law provides that the deadline for payment of ad valorem taxes for 2005 (2006 Orleans) is extended and shall be paid no later than 45 days after certification and approval of the tax rolls by the La. Tax Commission or December 31, 2005 whichever date is later.

(Amends R.S. 47:1993(D) and 2101(A)(1); adds R.S. 47:1978.1)