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HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Havard to Engrossed Senate Bill No. 360 by Senator Riser

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" and before "to repeal" delete "R.S. 47:1989.1(A) and (B)"
 3 and insert "R.S. 47:1856 and 1989.1(A) and (B)"

4 AMENDMENT NO. 2

5 On page 1, line 6, after "therefor;" and before "to" insert the following:

6 "to provide with respect to the protest of the assessed valuation of public service
 7 properties; to authorize certain parties to protest such valuations; to provide for the
 8 mailing of certain notices;"

9 AMENDMENT NO. 3

10 On page 1, line 9, after "Section 1." and before "are hereby" delete "R.S. 47:1989.1(A) and
 11 (B)" and insert "R.S. 47:1856 and 1989.1(A) and (B)"

12 AMENDMENT NO. 4

13 On page 1, between lines 10 and 11, insert the following:

14 "§1856. Notice of valuation, hearings, appeals

15 A.(1) The Louisiana Tax Commission shall give notice of the initial
 16 determination of the assessed valuation in writing to the company, assessor, and each
 17 tax recipient body affected by the assessment. This notice shall be delivered by
 18 certified mail, return receipt requested addressed to, or by personal service upon, the
 19 officer or authorized agent of the company responsible for the filing of the annual
 20 report and this notice shall be delivered by first class mail to the assessor and each
 21 tax recipient body affected by the assessment. Except as provided in R.S.
 22 47:1856(G), in the event that the company, assessor, or any tax recipient body
 23 affected by the assessment objects to the initial determination by the Louisiana Tax
 24 Commission, it may, within thirty days after receipt of the notice of that initial
 25 determination, file a protest in writing to the Louisiana Tax Commission which
 26 protest shall fully disclose the reason for protesting the initial determination.

27 (2) The initial determination by the Louisiana Tax Commission shall become
 28 final if no protest is filed with the Louisiana Tax Commission within thirty days after
 29 receipt by the company, assessor, or each tax recipient body of the notice of the
 30 initial determination.

31 (3) In the event that a protest is filed, the Louisiana Tax Commission shall
 32 grant a full and complete hearing to the company protesting party at a time and place
 33 to be determined by the Louisiana Tax Commission, but in no case shall the hearing
 34 be scheduled more than one hundred eighty days from the date the company party
 35 filed its written protest in the case of public service property. Such hearing shall not

1 be consolidated with any other hearing with respect to any other protest filed in a
 2 different tax year by the taxpayer or by any other taxpayer of an initial determination
 3 of assessed valuation by the Louisiana Tax Commission.

4 B. At the hearing, the ~~company~~ protesting party shall assert all objections to
 5 the initial determination by the Louisiana Tax Commission and may file a statement
 6 under oath specifying each respect in which the initial determination is contested.
 7 The ~~company~~ protesting party may also offer full and complete testimony in support
 8 of its objections. Within thirty days following the completion of the hearing, the
 9 Louisiana Tax Commission shall notify the ~~company~~ protesting party, by the method
 10 specified in Subsection A of this Section, of its final determination.

11 C. Should the ~~company~~ protesting party not appear for a hearing scheduled
 12 pursuant to the provisions of Subsection A, or should the ~~company~~ protesting party
 13 fail to request a hearing on the initial determination by the Louisiana Tax
 14 Commission, the initial determination shall become the final determination of the
 15 Louisiana Tax Commission.

16 D.(1) Any ~~company that is~~ protesting party dissatisfied with the final
 17 determination of assessed valuation by the Louisiana Tax Commission may institute
 18 suit appealing the correctness or legality of such final determination of assessed
 19 valuation for taxation by the Louisiana Tax Commission. However, to state a cause
 20 of action, the petition instituting such suit shall name the Louisiana Tax Commission
 21 as defendant and shall set forth not only the final determination of assessed valuation
 22 for taxation made by the Louisiana Tax Commission appealed from, but also the
 23 assessed valuation for taxation that the ~~company~~ protesting party deems to be correct
 24 and legal and the reasons therefor.

25 (2) The proceedings in such suit shall be tried by preference, ~~whether or not~~
 26 ~~out of term time~~⁺, ~~at such~~ at a time as fixed by the district court. No new trial or
 27 rehearing shall be allowed.

28 (3) Any appeal from a judgment of the district court shall be heard by
 29 preference within sixty days of the lodging of the record in the court of appeal. The
 30 appeal shall be taken thirty days from the date the judgment of the district court is
 31 rendered. If such appeal is timely filed, any amount of taxes that were paid under
 32 protest pursuant to Subsection E of this Section shall remain segregated and invested
 33 pursuant to Subsection E of this Section and no bond or other security shall be
 34 necessary to perfect such appeal.

35 (4) In the event the supreme court grants a writ of certiorari, the court shall
 36 hear the appeal on the next regular docket of the court.

37 E. Any company instituting suit under the provisions of Subsection D of this
 38 Section shall pay the disputed portion of its taxes under protest to the officer or
 39 officers designated by law for the collection of such taxes and shall cause notice or
 40 notices to issue in such suit to such officer or officers as provided in R.S.
 41 47:2134(B). However, the portion of taxes that are not in dispute by the taxpayer
 42 shall be paid without being made subject to the protest.

43 F.(1) If the assessed valuation finally determined by the court is greater than
 44 the ~~company's own~~ assessed valuation determined by the protesting party, the court
 45 shall enter judgment against the company for the additional taxes due together with
 46 interest at the actual rate earned on the funds paid under protest, segregated and
 47 invested, which interest shall be paid solely from such funds. In any case in which
 48 a judgment is entered against the company, each tax recipient body shall remit an
 49 amount equal to ten percent of the proceeds received pursuant to the judgment to the
 50 Louisiana Tax Commission, which shall then forward such amount directly to the
 51 state treasurer.

1 (2) If the taxpayer prevails, the court shall enter judgment against the officer
 2 or officers designated by law for the collection of such taxes ordering such officer
 3 or officers to immediately refund to the company the amount of any overpayment of
 4 taxes together with interest at the actual rate earned on the funds paid under protest,
 5 segregated and invested during the period, from the date such funds were received
 6 by such officer or officers to the date of such refund or refunds, which interest shall
 7 be paid solely from such funds.

8 G. Any taxpayer, assessor, or tax recipient body asserting that a law or laws,
 9 including the application thereof, related to the valuation or assessment of public
 10 service properties is in violation of any act of the Congress of the United States, the
 11 Constitution of the United States, or the constitution of the state shall file suit in
 12 accordance with the provisions of R.S. 47:2134(C) and (D). The provisions of R.S.
 13 47:1856(E) and (F) shall be applicable to such proceedings; however, any party
 14 filing suit in accordance with the provisions of this Section shall ensure that the
 15 following are parties to the suit: the taxpayer, the tax commission, all affected tax
 16 recipient bodies, and all affected assessors and the officers responsible for the
 17 collection of any taxes owed pursuant to such assessment ~~shall be made parties to~~
 18 ~~such suit.~~ If such suit affects assessments of property located in more than one
 19 parish, such suit may be brought in either the district court for the parish in which the
 20 tax commission is domiciled or the district court of any one of the parishes in which
 21 the property is located and assessed. No bond or other security shall be necessary
 22 to perfect an appeal in such suit. Any appeal from a judgment of the district court
 23 shall be heard by preference within sixty days of the lodging of the record in the
 24 court of appeal. The appeal shall be taken thirty days from the date the judgment of
 25 the district court is rendered."