

2015 Regular Session

HOUSE BILL NO. 753

BY REPRESENTATIVE STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/AD VALOREM TAX: Provides with respect the classification of movable and immovable property of certain companies for purposes of calculating property tax

1 AN ACT

2 To amend and reenact R.S. 47:1851(M), to enact RS. 47:1954.1, and to repeal R.S.  
3 47:1851(B) and (Q) and 1855(G) and (H), relative to ad valorem property tax  
4 assessments; to provide with respect to the classification of property for use in the  
5 calculation of the tax; to provide for public service properties; to define and provide  
6 for the estimation of the value of, and allocation of the property of, barge line,  
7 towing, and other water transportation companies; to provide with respect to the  
8 classification of property owned by a telephone company; to provide for the  
9 allocation of certain movable property to the certain taxing authorities; to provide for  
10 effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:1851(M) is hereby amended and reenacted and RS. 47:1954.1 is  
13 hereby enacted to read as follows:

14 §1851. Definitions

15 \* \* \*

16 M. "Public service properties" means the immovable, major movable, and  
17 other movable property owned or used but not otherwise assessed in this state in the  
18 operations of each airline, electric membership corporation, electric power company,  
19 express company, gas company, pipeline company, railroad company, telegraph  
20 company, ~~telephone company~~, and water company. ~~For each barge line, towing, and~~

1 ~~other water transportation company or private car company, only the major movable~~  
2 ~~property owned or used but not locally assessed or otherwise assessed in this state~~  
3 ~~in interstate or interparish operations shall be considered as public service property.~~

4 \* \* \*

5 1954.1. Assessment of barge line, towing, and other water transportation  
6 companies

7 A. When used in this Section, unless the context requires a different meaning,  
8 the following terms shall have the following definitions:

9 (1) "Barge line, towing, and other water transportation company" means any  
10 resident or nonresident company, whether domiciled in this state or outside this state,  
11 whose boats, barges, or other watercraft either owned or leased are engaged in the  
12 business of water transportation as a common, contract, or private carrier over the  
13 inland waterways of this state on a regular basis. Excluded from this definition are  
14 supply vessels, overnight leisure passenger vessels, and crew vessels.

15 (2) "Company" shall have the same meaning as provided for in R.S.  
16 47:1851(C).

17 (3) "Immovable property" shall have the same meaning as provided for in  
18 R.S. 47:1851(H).

19 (4) "Major movable property of a barge line, towing, and other water  
20 transportation company" means all movable and regularly moved boats, barges, and  
21 other watercraft and floating equipment and similar things which have not the  
22 character of immovable property, either owned or leased for a definite and specific  
23 term; but not including other movable property of a barge line, towing, and other  
24 water transportation company. Motor vehicles or property specifically exempt by  
25 law shall not be included within this definition.

26 (5) "Other movable property of a barge line, towing, and other water  
27 transportation company" means all other property, corporeal or incorporeal, not  
28 included within the definition of "immovable property" or "major movable property"  
29 in Paragraph (2) of this Subsection and not immovable by nature or by disposition

1 of law, which are so owned, leased, and so operated or used, including, but not  
2 limited to, material and supplies, inventories, fuel, leased rail, tools, furniture and  
3 fixtures, machinery, scales, pumps, water wells, communication equipment used  
4 solely in an enterprise and not available to the public, landing piers, docks, and all  
5 similar equipment. Any property specifically exempt by law shall not be included  
6 within this definition.

7 B. Pursuant to the authority provided for in Article VII, Section 18(A) of the  
8 Constitution of Louisiana, barge line, towing, and other water transportation  
9 companies are hereby defined not to be public service properties and their property  
10 except land shall be assessed at fifteen percent of fair market value.

11 C.(1) Notwithstanding any other provision of this Part or any other law to the  
12 contrary, the Louisiana Tax Commission shall apportion the estimated value of the  
13 property of a barge line, towing, and other water transportation company which shall  
14 be subject to assessment by assessors in this state by the percentage of miles traveled  
15 by water by company property within this state divided by the miles traveled by  
16 water everywhere; provided that the Louisiana Tax Commission shall adjust such  
17 factor if it determines that its use does not accurately reflect the an estimate of the  
18 value assignable to company property within this state.

19 (2) The estimated value of all lands owned by a barge line, towing, and other  
20 water transportation company in this state shall be deducted from the total estimated  
21 value apportioned by the Louisiana Tax Commission and shall be assessed by the  
22 assessor in which the land is located. In addition, only the estimated value of major  
23 movable property owned or used in this state in interstate or interparish operations  
24 shall be allocated by the Louisiana Tax Commission.

25 (3) In any dispute as to the correctness or legality of an assessment, there  
26 shall be a rebuttable presumption that the allocation of estimated value of property  
27 by the Louisiana Tax Commission pursuant to this Section is the proper allocation  
28 of the value of such property.

1           D.(1) Major movable or other movable property owned or used in Louisiana  
2           by a barge line or towing company not a resident of, nor domiciled in Louisiana, and  
3           having no agent or office in Louisiana shall be allocated for the purpose of ad  
4           valorem taxation to the local taxing unit in which the company has its primary  
5           business connections. Any value not allocated to any other parish shall be allocated  
6           to East Baton Rouge Parish. Business connections shall include but shall not be  
7           limited to use of port facilities, repair facilities, storage facilities, and the like. The  
8           Louisiana Tax Commission may adopt rules and regulations to further define  
9           business connections, and define primary business connections.

10           (2) For those companies not provided for in Paragraph (1) of this Subsection,  
11           major movable or other movable property owned or used in Louisiana by a company  
12           not a resident of, nor domiciled in Louisiana, and having no agent or office in this  
13           state shall be allocated to East Baton Rouge Parish; provided, that in the event an  
14           assessor shall certify to the tax commission that, as of January first, certain  
15           identifiable major movables were present in his parish, the tax commission shall  
16           allocate the value of that major movable to the certifying parish.

17           (3) Major movable or other movable property owned or used in Louisiana by  
18           a company having an agent or office in this state shall be allocated to the taxing unit  
19           in which that agent or office is located.

20           Section 2. R.S. 47:1851(B) and (Q) and 1855(G) and (H) are hereby repealed in their  
21           entirety.

22           Section 3. This Act shall become effective on January 1, 2016.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 753 Original

2015 Regular Session

Stokes

**Abstract:** For purposes of ad valorem property tax, changes the classification for the calculation of property tax for certain public service companies, including telephone companies, barge, towing, and other water transportation companies, also provides various parameters regarding the valuation and assessment of the movable and immovable properties.

Present constitution classifies property subject to ad valorem property taxation and the percentage of fair market value applicable to each classification for the purpose of determining assessed valuation are as follows:

Classifications	Percentages
1. Land	10%
2. Improvements for residential purposes	10%
3. Electric cooperative properties, excluding land	15%
4. Public service properties; excluding land	25%
5. Other property	15%

Present constitution requires each local tax assessor to determine the fair market value of all property subject to taxation within his respective parish or district except "public service properties", which must be valued by the Louisiana Tax Commission ("LTC").

Present constitution authorizes the legislature to enact laws defining "public service properties".

Present law provides definitions, including those for "barge line, towing, and other water transportation company", "major movable property", and "other movable property" as follows:

- (1) "Barge line, towing, and other water transportation company" means any resident or nonresident company, whether domiciled in this state or outside this state, whose boats, barges, or other watercraft either owned or leased are engaged in the business of water transportation as a common, contract, or private carrier over the inland waterways of this state on a regular basis. Excluded from the definition are supply vessels, overnight leisure passenger vessels, and crew vessels.
- (2) "Major movable property" of a "barge line, towing, and other water transportation company" means all movable and regularly moved boats, barges, and other watercraft and floating equipment and similar things which have not the character of immovable property, either owned or leased for a definite and specific term; but not including other movable property of a barge line, towing, and other water transportation company, specifically excluding motor vehicles.
- (3) "Other movable property" of "public service properties" means all other property, corporeal or incorporeal, not included within the definition of immovable property or "major movable property" and not immovable by nature or by disposition of law, which are "so owned, leased, and so operated or used," including, but not limited to, material and supplies, inventories, fuel, leased rail, tools, furniture and fixtures, machinery, scales, pumps, water wells, communication equipment used solely in an enterprise and not available to the public, landing piers, docks, and all similar equipment. The definition excludes property specifically exempt by law.

Proposed law retains the definitions in present law as they are applicable to "barge line, towing, and other water transportation companies" but moves them into the proposed law dealing with non-public service properties. Further, proposed law defines barge line, towing, and other water transportation companies to not be "public service properties" and specifies that their property, except land, shall be assessed at 15% of fair market value. This changes the assessment rate from 25% to 15%.

Proposed law deletes "telephone companies" from the definition of "public service properties".

Present law requires the LTC to appraise "public service properties" and allocate the assessed valuation of each company among local taxing authorities. However, land and all

taxable "immovable", "major movable property", and "other movable" public service properties of a company that is "nonoperating or nonutility" must be appraised and assessed by the local tax assessor in the same manner and by the same standards as similar property in the parish in which it is located. Further, the LTC is required to allocate the appraised value of the property by utilizing percentages: most pertinent for "barge line, towing, and other water transportation companies," miles traveled by water by company property within the state divided by the miles traveled by water everywhere.

Proposed law requires the LTC to apportion the "estimated value" of the property of a barge line, towing, and other water transportation company which shall be subject to assessment by local tax assessors by the percentage of miles traveled by water by company property within the state divided by the miles traveled by water everywhere. The estimated value of all lands owned by a barge line, towing, and other water transportation company in this state must be deducted from the total estimated value apportioned by the LTC and must be assessed by the local tax assessor in which the land is located. In addition, only the estimated value of "major movable property" owned or used in the state in interstate or interparish operations is to be allocated by the LTC.

Proposed law provides that in any dispute as to the correctness or legality of an assessment, there shall be a rebuttable presumption that the allocation of estimated value of property by the Louisiana Tax Commission is the proper allocation of the value of such property.

Proposed law retains the specific rules in present law for allocating "major movable" or "other movable property" owned or used in La. by a "barge line" or "towing company".

Effective January 1, 2016.

(Amends R.S. 47:1851(M); Adds R.S. 47:1954.1; Repeals R.S. 47:1851(B) and (Q), and 1855(G) and (H))