

2016 Regular Session

HOUSE BILL NO. 717

BY REPRESENTATIVE STOKES

REVENUE DEPARTMENT: Provides relative to the funding of the operations of the Department of Revenue

1 AN ACT

2 To amend and reenact Section 2 of Act No. 198 of the 2014 Regular Session of the
3 Legislature and to enact R.S. 47:1608 and 1609, relative to the Department of
4 Revenue; to provide for the funding of the Department of Revenue; to provide for
5 the disposition of certain taxes, penalties, and interest collected by the department;
6 to provide for certain requirements and limitations; to provide for certain interagency
7 transfers; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Section 2 of Act No. 198 of the 2014 Regular Session of the Legislature
10 is hereby amended and reenacted to read as follows:

11 * * *

12 Section 2. The Board of Tax Appeals and the secretary of the Department
13 of Revenue ~~may~~ shall enter into an agreement for a fixed annual interagency transfer
14 to the board as payment in lieu of filing fees owed by the secretary. Subject to
15 appropriation by the Legislature, the amount of monies agreed upon for Fiscal Year
16 2016-2017 shall be fixed at one-hundredth of the one percent of taxes and fees to be
17 retained by the department according to the official forecast for Fiscal Year 2016-
18 2017 adopted by the Revenue Estimating Conference on the date of the enactment
19 of House Bill No. 1 of the 2016 Regular Session of the Legislature. Subject to
20 appropriation by the Legislature, for Fiscal Year 2017-2018 and each fiscal year

1 thereafter, the amount of the payment shall be the amount appropriated to the board
2 for the prior fiscal year together with any adjustment made by agreement between
3 the secretary and the board.

4 * * *

5 Section 2. R.S. 47:1608 and 1609 are hereby enacted to read as follows:

6 §1608. Disposition of Penalties and Self-Generated Revenue

7 A. The disposition of all state taxes, interest, and penalties collected by the
8 Department of Revenue pursuant to any provision of Title 47 of the Louisiana
9 Revised Statutes of 1950, as amended, shall be governed by the following:

10 (1) State Taxes and Interest. Beginning July 1, 2016, an amount equal to one
11 percent of the state taxes and interest collected by or on behalf of the secretary of the
12 Department of Revenue shall be designated as self-generated revenue of the
13 Department of Revenue.

14 (2) Penalties.

15 Beginning July 1, 2016, and thereafter, of the amount of penalties collected
16 by the secretary of the Department of Revenue, twenty-five percent shall be
17 designated as self-generated revenue of the department. The remaining balance of
18 penalties collected by the secretary of the Department of Revenue shall be
19 transferred to the state treasury for deposit into the state general fund.

20 B. Subject to appropriation by the legislature, monies designated as self-
21 generated revenues pursuant to the provisions of this Section shall be used by the
22 Department of Revenue for the administration and collection of taxes and for
23 operation of the department, including the fulfillment of the department's obligations
24 related to the costs of tax adjudication.

25 C. The provisions of this Section shall not apply to any of the following:

26 (1) Any amounts collected by the secretary of the Department of Revenue
27 required to be deposited into the Transportation Trust Fund or to any other taxes
28 specifically required to be deposited into other special treasury funds pursuant to the
29 Constitution of Louisiana.

1 (2) Any amounts collected by the secretary of the Department of Revenue
2 and required to be deposited into the Tobacco Tax Medicaid Match Fund.

3 (3) Motor fuel taxes, penalties, and interest collected and forwarded by the
4 secretary of the Department of Revenue to another jurisdiction pursuant to the
5 International Fuel Tax Agreement (IFTA) or any other cooperative compacts or
6 agreements with another state or other states or provinces as authorized by R.S.
7 47:803.1.

8 (4) Fulfillment of the Department of Revenue's obligations related to the
9 costs of tax adjudication associated with the employment of private counsel as
10 authorized by R.S. 47:1512.

11 D. The provisions of Paragraph (A)(1) of this Section shall apply to taxes
12 and interest collected by the Department of Revenue pursuant to any provision of
13 Title 26 of the Louisiana Revised Statutes of 1950, as amended.

14 §1609. Temporary Transitional Relief from Penalties

15 Notwithstanding any provision of law to the contrary, with the exception of
16 those situations when, in the opinion of the secretary, the taxpayer has acted in bad
17 faith or with intentional disregard for the laws of the state or the regulations of the
18 department, the secretary may waive any penalty imposed under this Subtitle due
19 solely to underpayments of sales tax resulting solely from changes to the law enacted
20 in Act No. 25 and Act No. 26 of the 2016 First Extraordinary Session of the
21 Legislature.

22 Section 3. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

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)]

HB 717 Reengrossed

2016 Regular Session

Stokes

Abstract: Provides for the disposition of all state taxes, interest, and penalties collected by the Dept. of Revenue and designates a portion of these collections to be self-generated revenue of the department.

Proposed law provides that beginning July 1, 2016, an amount equal to 1% of the state taxes and interest collected by or on behalf of the Dept. of Revenue (DOR) shall be designated as self-generated revenue of the department.

Proposed law requires, with respect to penalties collected by DOR, that from July 1, 2016, and thereafter, 25% of penalties be designated as self-generated revenue of DOR and the remaining balance of penalties be deposited into the state general fund.

Proposed law requires the self-generated revenues to be used by DOR for the administration and collection of taxes and for operation of the department.

Proposed law exempts the following from the provisions of proposed law:

- (1) Amounts collected by DOR required to be deposited into the Transportation Trust Fund or any other taxes required to be deposited into other special treasury funds pursuant to present constitution.
- (2) Amounts collected by DOR required to be deposited into the Tobacco Tax Medicaid Match Fund.
- (3) Motor fuel taxes, penalties, and interest collected and forwarded to another jurisdiction pursuant to the International Fuel Tax Agreement (IFTA) or any other cooperative compacts or agreements with another state or other states or provinces.
- (4) Costs of tax adjudication associated with the employment of private counsel as authorized by present law.

Present law authorizes an interagency transfer between the DOR and the Board of Tax Appeals in lieu of filing fees.

Proposed law changes present law to require rather than authorize the interagency transfer. For FY 2016-2017, fixes the amount of the monies transferred at 1/100th of 1% of taxes and fees retained by DOR according to the official forecast adopted by the Revenue Estimating Conference. Beginning FY 2017-2018, sets the annual amount as the amount appropriated for the prior fiscal year together with any adjustment made by agreement between the secretary and the board.

Proposed law authorizes the secretary of DOR to waive any penalty imposed under present law due solely to underpayment of sales tax resulting from enactment of Act No. 25 and Act No. 26 of the 2016 First E.S. Excludes underpayments as a result of a taxpayer acting in bad faith or with intentional disregard for the laws of the state or DOR regulations from the waiver of penalties in proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends §2 of Act No. 198 of the 2014 R.S.; Adds R.S. 47:1608 and 1609)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Change the determination of the amount annually allocated to the Board of Tax Appeals.
2. Change the percentage of penalties that shall be designated as self-generated revenue of the department in FY 2016-17 and 2017-18 from an amount that is reduced over time to a fixed amount not more than 25%.
3. Add specification that proposed law also applies to taxes and interest collected by DOR pursuant to present law relative to alcoholic beverages.
4. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Exempt amounts collected by DOR required to be deposited into the Tobacco Tax Medicaid Match Fund and certain motor fuel taxes, penalties, and interest collected by DOR from the provisions of proposed law.
2. Exempt the costs of tax adjudication associated with the employment of private counsel as authorized by present law from the provisions of proposed law.
3. Authorizes the waiver of penalties imposed under present law due solely to underpayments of sales tax resulting from enactment of Act No. 25 and Act No. 26 of the 2016 First E.S. However, excludes underpayments as a result of a taxpayer acting in bad faith or with intentional disregard for the law or DOR regulations from the waiver of penalties in proposed law.
4. Change the amount of penalties collected by DOR required to be designated self-generated revenue of DOR from not more than 25% of penalties to 25% of penalties.