

2019 Regular Session

HOUSE BILL NO. 81

BY REPRESENTATIVE ABRAHAM

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

TAX/AD VALOREM-EXEMPTION: Authorizes and provides for cooperative endeavor agreements between local governmental subdivisions and other entities that may require payments in lieu of taxes

1 AN ACT
2 To amend and reenact R.S. 33:9021(8) and (10), and 9022(1) and to enact R.S. 33:2759.1,
3 relative to ad valorem tax exemptions; to provide with respect to payments in lieu
4 of taxes pursuant to certain cooperative endeavor agreements; to provide relative to
5 procedures for the validity of certain cooperative endeavor agreements; to provide
6 for cooperative endeavor agreement approval; to provide for limitations and
7 requirements; to provide for definitions; to provide for effectiveness; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:9021(8) and (10), and 9022(1) are hereby amended and reenacted
11 and R.S. 33:2759.1 is hereby enacted to read as follows:

12 §2759.1. Cooperative endeavor agreements authorizing payments in lieu of ad
13 valorem taxes

14 A.(1) One or more local governmental subdivisions or any other entities
15 having taxing authority may enter into a joint or separate cooperative endeavor
16 agreement that provides for payments in lieu of ad valorem taxes imposed by a
17 taxing authority that is a party to the cooperative endeavor agreement, with owners
18 of property eligible for the property tax exemption provided for manufacturing

1 establishments as described in Article VII, Section 21(F) of the Constitution of
2 Louisiana.

3 (2) The cooperative endeavor agreement shall only apply to taxing authorities
4 who are parties to the agreement. A non-participating taxing authority shall not be
5 bound by the agreement and its ad valorem taxes shall continue to be billed and
6 collected without regard to the provisions of this Section.

7 (3) The assessor for the parish where the property subject to the proposed
8 cooperative endeavor agreement is located shall be consulted in connection with the
9 negotiation of terms of the cooperative endeavor agreement.

10 (4) The business requesting to participate in payments in lieu of taxes shall
11 provide a copy of the proposed cooperative endeavor agreement and all other
12 relevant information to the Department of Economic Development for review. The
13 business shall receive a written summary of the estimated direct, indirect, and
14 induced economic impacts of the project from the Department of Economic
15 Development prior to scheduling any public hearing.

16 (5) Prior to the taxing authority executing a cooperative endeavor agreement
17 for a payment in lieu of taxes, a public hearing shall be conducted in accordance with
18 Paragraph (6) of this Subsection, and shall be approved by the following:

19 (a) The parish governing authority representing the parish and all parish
20 taxing authorities located outside the boundary of any municipality that receives a
21 millage, evidenced by a resolution.

22 (b) The school board, evidenced by a resolution.

23 (c) The municipal governing authority, representing municipalities and all
24 municipal taxing authorities that receive a millage, evidenced by a resolution.

25 (d) The sheriff, evidenced by a letter.

26 (6) Prior to granting approval for a taxing authority to enter into a cooperative
27 endeavor agreement, a public hearing shall be conducted by the parish and municipal
28 governing authorities, the school board, and the sheriff. Notice of the hearing shall
29 be published in the official journal of the applicable taxing authority at least once,

1 no later than fourteen days prior to the hearing, or if there is no official journal, in
2 a newspaper having general circulations therein. The notice shall inform the public
3 where a copy of the proposed cooperative endeavor agreement may be obtained and
4 the time and place of the hearing.

5 B. Any property subject to a cooperative endeavor agreement that requires
6 payments in lieu of ad valorem taxes shall be exempt from ad valorem taxation
7 during the term or terms of the cooperative endeavor agreement, and to the extent
8 provided for in the cooperative endeavor agreement, as authorized under Article VII,
9 Section 21(O). Cooperative endeavor agreements entered into pursuant to this
10 Section shall be for a term of not more than twenty-five years. Any cooperative
11 endeavor agreement entered into that requires payments in lieu of ad valorem taxes
12 may provide for a reduction in ad valorem taxes. All property exempted shall be
13 listed on the assessment rolls and such information shall be submitted to the
14 Louisiana Tax Commission.

15 C. Except as otherwise provided in this Section, property that has been
16 subject to a contract of exemption as provided in Article VII, Section 21(F) of the
17 Constitution of Louisiana shall be ineligible for a cooperative endeavor agreement
18 that requires payments in lieu of ad valorem taxes. Notwithstanding the foregoing,
19 an ad valorem taxing authority may negotiate and enter into a cooperative endeavor
20 agreement with a property owner for payments in lieu of ad valorem taxes during the
21 first four years of a contract of exemption allowed by Article VII, Section 21(F) of
22 the Constitution of Louisiana as set forth in this Section. Any cooperative endeavor
23 agreement negotiated during the first four years of a contract of exemption shall
24 require the property owner to pay an amount specified in the cooperative endeavor
25 agreement to offset the abatement of ad valorem taxes that was permitted during the
26 time the property was subject to a contract of exemption as provided in Article VII,
27 Section 21(F) of the Constitution of Louisiana.

28 D. Payment obligations, transferability, collection procedures which may
29 include the designation of a collector, and any other matters relating to the payment

1 and collection of payments made in lieu of ad valorem taxes shall be set forth in a
2 cooperative endeavor agreement authorized under this Section.

3 E. In order to provide a uniform, expeditious, and equitable procedure to
4 determine the validity of a cooperative endeavor agreement authorized under this
5 Section, as well as any transaction contemplated thereby, a suit to determine the
6 validity of an agreement may be filed as provided in R.S. 13:5121 et seq., in the
7 district court having jurisdiction for any party to the agreement in the same manner
8 and as though the agreement constitutes an issuance of bonds by the taxing authority.
9 In the case of property owners not eligible for the property tax exemption provided
10 by Article VII, Section 21(F) of the Constitution of Louisiana, a proceeding made
11 pursuant to the provisions of R.S. 13:5121 et seq., may be filed only following
12 approval of the cooperative endeavor agreement by the Joint Legislative Committee
13 on the Budget as set forth in this Section.

14 F. "Manufacturing establishment" as used in this Section means a new plant
15 or establishment or an addition or additions to any existing plant or establishment
16 which engages in the business of working raw materials into wares suitable for use
17 or which gives new shapes, qualities or combinations to matter which already has
18 gone through some artificial process.

19 * * *

20 §9021. Findings, declarations of necessity, and purpose

21 It is hereby found and declared that:

22 * * *

23 (8) Public-private partnerships which take advantage of the special expertise
24 and experience of representatives of the private sector and other cooperative
25 endeavor agreements can be among the most effective programs to encourage and
26 maintain economic development.

27 * * *

28 (10) It is in the best interest of the state of Louisiana and of its regions,
29 parishes, and municipalities to encourage, create, and support public-private

for payments in lieu of ad valorem taxes imposed by that taxing authority, subject to the approval of the parish governing authority, the school board, the municipal governing authority, and the sheriff as evidenced by the adoption of a resolution for that purpose, or in the case of a sheriff, a letter.

Proposed law provides that the tax assessor be consulted in the negotiation of the cooperative endeavor agreement terms.

Proposed law requires that a public hearing be held prior to the adoption of a resolution for the approval of a cooperative endeavor agreement pursuant to proposed law. Public notice is required in the form of advertisement in the official journal of the taxing authority, or in the absence of an official journal, its local equivalent, at least once no later than 14 days prior to the hearing. The public notice shall provide for where a copy of the draft cooperative endeavor agreement may be examined.

Proposed law requires the business requesting the approval of the cooperative endeavor agreement to provide a copy of the proposed agreement to the Dept. of Economic Development (DED) for review. The public hearing cannot be scheduled until the business receives a written summary by DED of the economic impacts of the project.

Proposed law provides that any property subject to an agreement shall be exempt from ad valorem taxation or may provide for a reduction in ad valorem taxes during the term of the agreement to the extent provided for in the agreement.

Proposed law limits cooperative endeavor agreements entered into for payment in lieu of taxes to a term of no more than 25 years.

Proposed law provides that a cooperative endeavor agreement shall have no application to any ad valorem tax of a taxing authority which is not a party to the agreement.

Proposed law limits eligibility for the exemption to the property of a manufacturing establishment that qualifies for the industrial tax exemption.

Proposed law and proposed constitutional amendment further prohibit eligibility for this exemption for a manufacturing establishment that has had a contract for the industrial tax exemption, unless it is within the first four years of the industrial tax exemption contract.

Proposed law requires that exempt properties be listed on the assessment rolls and information concerning those properties be submitted to the La. Tax Commission.

Proposed law provides that administrative provisions concerning the collection of monies due under an agreement shall be the same as those for ad valorem taxes. Further, the validity of an agreement, as well as any transaction contemplated thereby, may be determined by the filing of a suit as provided in present law, in the district court having jurisdiction for any party to the agreement in the same manner and as though the agreement constitutes an issuance of bonds by the taxing authority.

Present law defines a "cooperative endeavor agreement" as a form of economic development assistance between and among the state and local governments and other entities.

Proposed law retains present law and adds "agreements providing for payments in lieu of taxes" to the definition of "cooperative endeavor agreement".

Proposed law defines "manufacturing establishment" for purposes of proposed law as a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process.

Effective if and when House Bill No. 76 of this 2019 R.S. is enacted and becomes effective.

(Amends R.S. 33:9021(8) and (10), and 9022(1); Adds R.S. 33:2759.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the authority that initially approves the cooperative endeavor agreement from the taxing authority agreeing to the cooperative endeavor agreement to the parish governing authority, the school board, the municipal governing authority and sheriff mirroring the approval process for industrial tax exemptions.
2. Add a maximum term of 25 years for cooperative endeavor agreements entered into for payments in lieu of taxes.

The House Floor Amendments to the engrossed bill:

1. Impose a requirement that a business applying for a payment in lieu of taxes agreement provide a copy of the proposed cooperative endeavor agreement to the Dept. of Economic Development (DED) for review and the required public hearing cannot be scheduled until the DED provides the business with a written summary of the direct, indirect, and induced impacts of the project.
2. Define manufacturing establishments for purposes of proposed law.
3. Make technical changes.