

2020 First Extraordinary Session

HOUSE BILL NO. 49

BY REPRESENTATIVE IVEY

TAX/AD VALOREM-EXEMPTION: Authorizes and provides for an ad valorem tax exemption that allows cooperative endeavor agreements between taxing authorities and non-residential immovable property owners that require payments in lieu of ad valorem taxes (Item #28)

1 AN ACT

2 To amend and reenact R.S. 33:9021(8) and (10) and 9022(1) and to enact R.S. 33:2760,
3 relative to payments in lieu of ad valorem taxation; to authorize an exemption to
4 allow for payments in lieu of ad valorem property taxes pursuant to certain
5 cooperative endeavor agreements; to provide procedures for the validity of certain
6 cooperative endeavor agreements; to provide for cooperative endeavor agreement
7 approval; to provide for certain limitations and requirements; to provide for
8 definitions; to provide for effectiveness; and to provide 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. 33:2760 is hereby enacted to read as follows:

12 §2760. Cooperative endeavor agreements authorizing payments in lieu of ad
13 valorem taxes

14 A.(1) Eligible owners of non-residential immovable property and taxing
15 authorities may enter into a joint or separate cooperative endeavor agreement that
16 provides for payments in lieu of ad valorem taxes imposed by a taxing authority that
17 is a party to the cooperative endeavor agreement.

18 (2) The cooperative endeavor agreement shall only apply to taxing
19 authorities who are parties to the agreement. A non-participating taxing authority

1 shall not be bound by the agreement, and its ad valorem taxes shall continue to be
2 billed and collected without regard to the provisions of this Section.

3 (3) The assessor for the parish where the non-residential immovable property
4 subject to the proposed cooperative endeavor agreement is located shall be consulted
5 in connection with the negotiation of the terms of the cooperative endeavor
6 agreement.

7 (4) The property owner requesting to participate in payments in lieu of taxes
8 shall provide a copy of the proposed cooperative endeavor agreement and all other
9 relevant information to the Department of Economic Development, hereinafter
10 "department", for review. Prior to scheduling any public hearing, the department
11 shall submit to the property owner a written summary of the estimated direct,
12 indirect, and induced economic impacts of the project.

13 (5) Within three business days of the department submitting its summary of
14 findings to the property owner, the department shall submit the same information to
15 all taxing authorities that could be a party to the proposed cooperative endeavor
16 agreement. No public hearing shall be held until all taxing authorities subject to the
17 proposed cooperative endeavor agreement have received a copy of the department's
18 summary. Throughout the application process the department shall serve as an
19 economic development advisor for local taxing authorities subject to the proposed
20 agreement.

21 (6) Prior to the taxing authority executing a cooperative endeavor agreement
22 for payments in lieu of taxes, a public hearing shall be conducted in accordance with
23 Paragraph (7) of this Subsection, and the cooperative endeavor agreement shall be
24 approved by the following:

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

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

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

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

4 (7) Prior to granting approval for a taxing authority to enter into a
5 cooperative endeavor agreement, a public hearing shall be conducted by the parish
6 and municipal governing authorities, the school board, and the sheriff. Notice of the
7 hearing shall be published in the official journal of the applicable taxing authority
8 at least once, no later than fourteen days prior to the hearing, or if there is no official
9 journal, in a newspaper having general circulation therein. The notice shall inform
10 the public where a copy of the proposed cooperative endeavor agreement may be
11 obtained and the time and place of the hearing.

12 B. Any non-residential immovable property subject to a cooperative
13 endeavor agreement that requires payments in lieu of ad valorem taxes shall be
14 exempt from ad valorem taxation during the term or terms of the cooperative
15 endeavor agreement and to the extent provided for in the cooperative endeavor
16 agreement, as authorized by Article VII, Section 21(O) of the Constitution of
17 Louisiana. Cooperative endeavor agreements entered into pursuant to this Section
18 shall be for a term of not more than twenty-five years. Any cooperative endeavor
19 agreement entered into that requires payments in lieu of ad valorem taxes may
20 provide for a reduction in ad valorem taxes. All property included in a cooperative
21 endeavor agreement pursuant to this Section shall be listed on the assessment rolls
22 and such information shall be submitted to the Louisiana Tax Commission.

23 C. Payment obligations, transferability, collection procedures which may
24 include the designation of a collector, and any other matters relating to the payment
25 and collection of payments made in lieu of ad valorem taxes shall be set forth in a
26 cooperative endeavor agreement authorized pursuant to this Section.

27 D. In order to provide a uniform, expeditious, and equitable procedure to
28 determine the validity of a cooperative endeavor agreement authorized pursuant to
29 this Section, as well as any transaction contemplated thereby, a suit to determine the

1 validity of an agreement may be filed as provided in R.S. 13:5121 et seq., in the
2 district court having jurisdiction for any party to the agreement in the same manner
3 and as though the agreement constitutes an issuance of bonds by the taxing authority.

4 * * *

5 §9021. Findings, declarations of necessity, and purpose

6 It is hereby found and declared that:

7 * * *

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

12 * * *

13 (10) It is in the best interest of the state of Louisiana and of its regions,
14 parishes, and municipalities to encourage, create, and support public-private
15 partnerships and other cooperative endeavor agreements, and to permit and
16 encourage participation by representatives of private-sector industries which may
17 benefit from economic development programs, while providing appropriate
18 protections for the public interest.

19 * * *

20 §9022. Definitions

21 The following terms, whenever used or referred to in this Chapter, shall have
22 the following meaning unless a different meaning is otherwise clearly indicated in
23 the context:

24 (1) "Cooperative endeavors" means any form of economic development
25 assistance between and among the state, its local governmental subdivisions,
26 political corporations, public benefit corporations, the United States or its agencies,
27 or any public or private association, corporation, or individual. The term
28 "cooperative endeavors" shall include but not be limited to cooperative financing,

1 cooperative development, agreements providing for payments in lieu of taxes, or any
2 other form of cooperative economic development activity.

3 * * *

4 Section 2. This Act shall take effect and become operative if and when the proposed
5 amendment of Article VII, Section 21 of the Constitution of Louisiana contained in the Act
6 which originated as House Bill No. 33 of this 2020 First Extraordinary Session of the
7 Legislature is adopted at a statewide election and becomes effective.

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 49 Original 2020 First Extraordinary Session Ivey

Abstract: Authorizes an ad valorem tax exemption allowing a taxing authority to enter into a cooperative endeavor agreement with a property owner of non-residential immovable property that requires payments in lieu of ad valorem taxes.

Present constitution provides an exclusive list of ad valorem property tax exemptions.

Proposed law authorizes taxing authorities to enter into a cooperative endeavor agreement that provides 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 shall 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 requires that the summary and additional information produced by DED be submitted to all taxing authorities that could be party to the cooperative endeavor agreement. Proposed law also requires that DED act as an independent economic development advisor to the taxing authorities throughout the cooperative endeavor agreement process.

Proposed law provides that any non-residential immovable 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 requires that property in the cooperative endeavor agreement 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".

Effective if and when House Bill No. 33 of this 2020 1st E.S. is enacted and becomes effective.

(Amends R.S. 33:9021(8) and (10) and 9022(1); Adds R.S. 33:2760)