

2021 Regular Session

HOUSE BILL NO. 559

BY REPRESENTATIVE PRESSLY

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

TAX: Provides relative to the authority of local collectors to adjudicate local sales and use tax matters and the jurisdiction of the Board of Tax Appeals

1 AN ACT

2 To amend and reenact R.S. 47:337.2(A)(1)(c), 337.40, 1407(1), 1410(A), and 1432(A),

3 relative to state and local tax adjudication; to provide for the authority of local

4 collectors to conduct hearings; to provide for limitations and requirements; to

5 provide for the jurisdiction of the Board of Tax Appeals; to provide with respect to

6 the findings of fact and issuance of decisions by the Board of Tax Appeals; to require

7 certain notice to taxpayers and local collectors; to provide for applicability; to

8 provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:337.2(A)(1)(c), 337.40, 1407(1), 1410(A), and 1432(A) are

11 hereby amended and reenacted to read as follows:

12 §337.2. Intent; application and interpretation of Chapter

13 A.(1) The intention of the legislature in enacting the provisions of this

14 Chapter is as follows:

15 * * *

16 (c) To provide, in addition to existing judicial remedies, for an impartial,

17 economical, and expeditious forum where a taxpayer may choose to resolve disputes

18 arising under sales and use taxes imposed by local taxing authorities before the

19 Board of Tax Appeals, an independent quasi judicial agency ~~within the Department~~

1 ~~of State Civil Service~~; and to provide a uniform remedy for taxpayers appealing
2 assessments or denials or inaction on a refund claim, all for the purpose of promoting
3 uniformity and consistency in the interpretation and application of law governing
4 such taxes.

5 * * *

6 §337.40. Power to conduct hearings

7 A. The collector or any of his authorized assistants may conduct hearings,
8 administer oaths to, and examine under oath, any taxpayer, and the directors,
9 officers, agents, and employees of any taxpayer, and any other witnesses, relative to
10 the business of ~~such~~ the taxpayer in respect to any matter incident to the
11 administration of the local ordinance and this Part. Hearings conducted pursuant to
12 the provisions of this Section shall be conducted in an informal manner, shall not
13 constitute an adjudication nor a trial on the merits, and the provisions of the Code of
14 Civil Procedure shall not be applicable.

15 B. The collector may produce a record of the hearing and may use the record
16 to make a final determination of tax, penalty, and interest due. Any record of the
17 hearing produced by the collector shall be used solely for administrative purposes
18 by the collector and shall not be used as a trial court record in the Board of Tax
19 Appeals or any other court.

20 * * *

21 §1407. Jurisdiction of the board

22 The jurisdiction of the board shall extend to the following:

23 (1) All matters relating to appeals for the redetermination of assessments, the
24 determination of overpayments, payment under protest petitions, or other matters
25 within its jurisdiction, as provided in R.S. 47:1431 through 1438 or other applicable
26 law. For all matters set forth in this Paragraph, the board shall have original
27 jurisdiction and shall conduct hearings in accordance with the provisions of R.S.
28 47:1410(A).

29 * * *

1 §1410. Findings of fact, decisions, and opinions

2 A. The board shall, in each case heard by it, or in any matter referred to it by
3 the collector or in each case submitted to it upon stipulations of agreement and fact,
4 issue written findings of fact and conclusions of law and make and file a written
5 decision or judgment thereon. In all cases and matters, including matters from the
6 Local Tax Division, the board shall act as a trial court in the finding of facts and
7 issuing of conclusions of law and shall conduct a trial de novo with a full evidentiary
8 hearing.

9 * * *

10 §1432. Notice; hearing; decision

11 A. The taxpayer and the collector shall be afforded notice and opportunity
12 to be heard in each proceeding for the redetermination of an assessment, the
13 consideration of a payment under protest petition, or for the determination of an
14 overpayment. A decision or judgment in ~~such~~ these matters shall be made as quickly
15 as practicable and shall be conducted in accordance with the provision of R.S.
16 47:1410(A).

17 * * *

18 Section 2. The provisions of this Act shall be procedural and interpretative.

19 Section 3. This Act shall become effective upon signature by the governor or, if not
20 signed by the governor, upon expiration of the time for bills to become law without signature
21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become
23 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 559 Original

2021 Regular Session

Pressly

Abstract: To provide for the authority of state and local collectors to conduct hearings related to local sales and use taxes and the jurisdiction and requirements of the Board of Tax Appeals in certain appeals related to assessments involving state and local collectors.

Present law provides for establishment of the Uniform Local Sales Tax Code to promote uniformity for local tax collectors and taxpayers in the assessment, collection, administration, and enforcement of sales and use taxes imposed by local taxing authorities.

Present law authorizes a local collector or an authorized assistant to conduct hearings, administer oaths, and examine any taxpayer, employee of a taxpayer, or other witnesses related to the administration of a local ordinance or the Uniform Sales and Use Tax Code.

Proposed law retains present law and specifies that hearings conducted by a local collector or an authorized assistant shall be conducted in an informal manner, shall not constitute an adjudication or a trial on the merits, and the provisions of the Code of Civil Procedure shall not be applicable. Proposed law authorizes a collector to produce a record of the hearing and to use the record to make a final determination of tax, penalty, and interest due but the records shall be used solely for administrative purposes by the collector and shall not be used as a trial court record in the Board of Tax Appeals (hereinafter "board") or any other court.

Present law provides for establishment of a board and sets forth the jurisdiction of the board to hear matters such as waiver of penalties, state or local fees or taxes, claims against the state, appeals for the redetermination of assessments by state and local collectors, the determination of overpayments, and issue related to payment under protest.

Proposed law retains present law and specifies that for matters related to appeals for the redetermination of assessments by state and local collectors, the determination of overpayments, payment under protest, or other matters within its jurisdiction, the board shall have original jurisdiction and shall conduct hearings in accordance with the provisions of present law related to findings of fact and the rendering of decisions and opinions.

Present law requires the board to issue written findings of fact and conclusions of law and to make and file a written decision or judgment in each case heard by it or in any matter referred to it by the collector.

Proposed law retains present law and specifies that in all cases and matters, the board shall act as a trial court in the finding of facts and issuing conclusions of law and shall conduct a trial de novo with a full evidentiary hearing.

Present law requires the taxpayer and the collector to given notice and opportunity to be heard in each proceeding for the redetermination of an assessment, the consideration of a payment under protest petition, or for the determination of an overpayment.

Proposed law retains present law and specifies that a decision or judgment in these matters shall be made as quickly as practicable and shall be conducted in accordance with present law and proposed law relative to the findings of fact and the rendering of decisions and opinions.

Proposed law provides that the provisions of proposed law shall be procedural and interpretative.

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

(Amends R.S. 47:337.2(A)(1)(c), 337.40, 1407(1), 1410(A), and 1432(A))