

1 Section 1. R.S. 47:1402(D)(2), (3)(introductory paragraph), and (5), 1403(B)(6)(c),
2 1407(3) and (7), 1418(4)(b) and (c), 1431(B), 1436(B), 1437(A), 1856(D)(2) and (3) and
3 (G), 1857(B)(1), 1989(B) and (C), 1998(A)(1) and (D), 2132(D), 2134(B)(1) and (3), (D),
4 and (E)(1) are hereby amended and reenacted and R.S. 47:1402(D)(3)(h) and (i), 1418(4)(d),
5 1431(F), 1856(H), and 1857(B)(3) are hereby enacted to read as follows:

6 §1402. Membership of board; qualifications; appointment; term; vacancy; salary

7 * * *

8 D.

9 * * *

10 (2) The nominating committee shall be responsible for developing a list of
11 not less than one, nor more than three, qualified nominees for any vacancy. Any
12 person nominated by the committee must be an attorney with experience in
13 Louisiana ~~sales~~ tax law, and at least one nominee shall be certified as a Tax Law
14 Specialist by the Louisiana Board of Legal Specialization.

15 (3) The Local Tax Division Nominating Committee is hereby established to
16 be comprised of ~~eight~~ ten members who shall be either an attorney licensed to
17 practice law in Louisiana, a certified public accountant, a certified Louisiana
18 assessor, or a parish tax administrator. The committee shall be comprised of the
19 following members:

20 * * *

21 (h) A representative of the Louisiana Assessor's Association.

22 (i) A representative selected jointly by the Council of State Taxation, the
23 Pelican Institute for Public Policy, and the Louisiana Chamber of Commerce
24 Foundation, representing the state's minority Chambers of Commerce.

25 * * *

26 (5) ~~Six~~ Eight members shall constitute a quorum for the transaction of
27 committee business, and each nomination must be approved by a favorable vote of
28 at least ~~five~~ six committee members.

29 * * *

1 §1403. Designation of officers; domicile; quorum; seal

2 * * *

3 B.

4 * * *

5 (6)

6 * * *

7 (c) For any case assigned to be heard in the Local Tax Division, all
8 references to the "Board of Tax Appeals" in this Chapter, ~~or~~ in Chapter 2-D of this
9 Subtitle, or in Subtitle III of this Title shall mean the board's Local Tax Division,
10 with the board's authority exercised by its local tax judge pursuant to Paragraph
11 (A)(3) of this Section.

12 * * *

13 §1407. Jurisdiction of the board

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

15 * * *

16 (3)(a) All matters related to state or local taxes or fees, ~~or~~ .

17 (b) All other jurisdiction otherwise provided by law, including rules to cease
18 business, ordinary collection suits, summary tax proceedings, rules to seek
19 uniformity of interpretation of common sales and use tax law or local sales and use
20 tax law, as provided in R.S. 47:337.101(A)(2), and petitions concerning the validity
21 of a collector's rules, regulations, or private letter rulings, as provided in R.S.
22 47:337.102.

23 * * *

24 (7) A petition for declaratory judgment or other action relating to any state
25 or local tax or fee, including disputes related to the constitutionality of a law or
26 ordinance or validity of a regulation concerning any matter relating to any state or
27 local tax or fee excluding those tax matters ~~within the jurisdiction of~~ related solely
28 to the correctness of an assessment by a parish assessor that is subject to review by

1 the Louisiana Tax Commission pursuant to the provisions of Article VII, Section
2 18(E) of the Constitution of Louisiana.

3 * * *

4 §1418. Definitions

5 For purposes of this Chapter, except when the context requires otherwise, the
6 words and expressions defined in this Section shall have the following meanings:

7 * * *

8 (4) "Local collector" means any of the following:

9 * * *

10 (b) The individual or entity responsible for collecting ad valorem tax,
11 occupational license tax, ~~or~~ occupancy tax, or other collector responsible for
12 collecting local taxes or fees, ~~excluding those tax matters within the jurisdiction of~~
13 ~~the Louisiana Tax Commission.~~

14 (c) The Assessor or the Louisiana Tax Commission if the assessor or the
15 commission is a party to a proceeding pursuant to the provisions of R. S. 47:1431.

16 (d) The agent or successor to any of the above, including any joint
17 commission, authority, or other duly constituted single collection entity, created by
18 an agreement, when administering or collecting the taxes of any local political
19 subdivision within the jurisdiction of the Board of Tax Appeals.

20 * * *

21 §1431. Filing of petition

22 * * *

23 B. If a taxpayer has complied with the provisions of R.S. 47:337.63, ~~or~~ 1576,
24 or 2134, the taxpayer may file a payment under protest petition with the board within
25 the respective periods set forth therein.

26 * * *

27 F.(1) If a relevant party is aggrieved by an action of a parish ad valorem tax
28 collector, assessor, or the Louisiana Tax Commission, and that action is appealable

1 to the board, the aggrieved party may file a petition with the board in accordance
2 with the provisions of R.S. 47:1856, 1857, 2132, or other applicable law.

3 (2) Intervention by the relevant assessor shall be authorized and joinder of
4 the relevant assessor shall be required, as provided by Subtitle III of this Title
5 concerning causes of action.

6 (3) Nothing in this Subsection shall authorize actions concerning the conduct
7 of tax sales, the nullification of tax sales, or contesting the seizure of movables for
8 collection.

9 * * *

10 §1436. Determination of which appellate court has jurisdiction

11 * * *

12 B. A judgment of the board in a case by or against a local collector may be
13 reviewed as follows:

14 (1) In the court of appeal for the parish where the tax being litigated is
15 levied, except as provided for in ~~Paragraph (2)~~ Paragraphs (2) or (3) of this
16 Subsection.

17 (2) In the case of an agreement between the ~~local collector and taxpayer~~
18 parties, then by the court of appeal as stipulated in the agreement.

19 (3) In the respective court of appeal for the parish of the appellee for any
20 case appealed by a local collector appealing a ruling issued against another local
21 collector pursuant to R.S. 47:337.101 or other applicable law, and if there are
22 appellees from different circuits, then in the court of appeal designated by the board
23 as having the most connection to the matter at issue.

24 (4) If Paragraphs (1) through (3) of this Subsection do not apply, then to the
25 court of appeal designated by the board as having the most connection to the matter
26 at issue or, if none, then the court of appeal for East Baton Rouge parish.

27 * * *

28 §1437. Effect of final judgment

1 commission and all affected assessors and the officers responsible for the collection
 2 of any taxes owed pursuant to ~~such~~ the assessment shall be made parties to ~~such~~ the
 3 suit. If ~~such~~ the suit affects assessments of property located in more than one parish,
 4 ~~such~~ the suit may be brought in ~~either~~ the Board of Tax Appeals, the district court
 5 for the parish in which the tax commission is domiciled, or the district court of any
 6 one of the parishes in which the property is located and assessed. No bond or other
 7 security shall be necessary to perfect an appeal in ~~such~~ the suit. Any appeal from a
 8 judgment of the district court shall be heard by preference within sixty days of the
 9 lodging of the record in the court of appeal. The appeal shall be taken thirty days
 10 from the date the judgment of the ~~district~~ reviewing court is rendered.

11 H. For purposes of this Section, references to the reviewing court shall be
 12 deemed to mean either a district court of proper venue or the Board of Tax Appeals.

13 §1857. Corrections and changes

14 * * *

15 B.(1)~~(a)~~ Any company may institute suit in the Board of Tax Appeals or any
 16 court having jurisdiction of the cause of action; for the purpose of contesting the
 17 correctness or legality of any corrections and changes of its assessed valuation for
 18 taxation by the Louisiana Tax Commission under this Section, which suit must be
 19 instituted within thirty days after receipt of the notice ordering the change. However,
 20 to state a cause of action, the petition instituting ~~such~~ the suit shall name the
 21 Louisiana Tax Commission as defendant and shall set forth not only the correction
 22 or change of its assessed valuation for taxation made by the Louisiana Tax
 23 Commission, but also the assessed valuation for taxation that the company deems to
 24 be correct and legal and the reasons therefor.

25 ~~(b) The proceedings in such suit shall be tried by preference, whether or not~~
 26 ~~out of term time[†], at such time as fixed by the district court. No new trial or~~
 27 ~~rehearing shall be allowed.~~

28 ~~(c) Any appeal from a judgment of the district court shall be heard by~~
 29 ~~preference within sixty days of the lodging of the record in the court of appeal. The~~

1 ~~appeal shall be taken thirty days from the date the judgment of the district court is~~
2 ~~rendered. If such appeal is timely filed, any amount of taxes that were paid under~~
3 ~~protest pursuant to R.S. 47:1856(E) shall remain segregated and invested pursuant~~
4 ~~to that Subsection and no bond or other security shall be necessary to perfect such~~
5 ~~appeal.~~

6 (d) ~~In the event the supreme court grants a writ of certiorari, the court shall~~
7 ~~hear the appeal on the next regular docket of the court.~~

8 * * *

9 (3) The provisions of R.S. 47:1856(D)(2), (3), and (4) shall be applicable to
10 all actions instituted pursuant to this Section. All references to the reviewing court
11 shall be deemed to mean either a district court of proper venue or the Board of Tax
12 Appeals.

13 * * *

14 §1989. Review of appeals by tax commission

15 * * *

16 B. The Louisiana Tax Commission shall consider the appeal of any taxpayer
17 subject to the requirement to pay taxes when due as required by R.S. 47:2134, any
18 bona fide representative of an affected tax-recipient body, or any assessor
19 dissatisfied with the determination of a local board of review. All documents, except
20 confidential forms as provided in R.S. 47:2327, filed in connection with any appeal
21 shall be available for public inspection during the regular business hours of the
22 Louisiana Tax Commission.

23 C.(1) All such appeal hearings shall be conducted in accordance with rules
24 and regulations established by the tax commission. this Section and the
25 Administrative Procedure Act. In all other matters, the tax commission may
26 prescribe and promulgate rules regarding the hearing of appeals.

27 (2)(a) Review of the correctness of an assessment by an assessor shall be
28 confined to review of evidence presented to the assessor prior to the close of the
29 period for inspection of the assessment lists provided for in R.S. 47:1992. If a

1 taxpayer makes application to present additional evidence before the date set for
2 hearing on the appeal and the Louisiana Tax Commission finds that the additional
3 evidence is material and that there were good reasons for failure to timely present it
4 to the assessor, the Louisiana Tax Commission may order that the additional
5 evidence be taken by the assessor. The assessor may modify the assessment by
6 reason of the additional evidence and shall notify the Louisiana Tax Commission of
7 any modifications to the assessment within fifteen calendar days of receipt of the
8 additional evidence. The Louisiana Tax Commission may then order any evidence
9 that is otherwise admissible be admitted for the purposes of review.

10 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
11 in an appeal addressing the correctness of an assessment of residential property
12 subject to the homestead exemption, the Louisiana Tax Commission may
13 independently appraise the property utilizing the criteria set forth in R.S. 47:2323
14 and may enter that appraisal into evidence for consideration on review of the
15 correctness of the assessment.

16 (3) The Louisiana Tax Commission may affirm the correctness of the
17 assessment, it may remand the matter for further consideration by the assessor, or it
18 may reverse or modify the assessment because the assessment is:

19 (a) In violation of constitutional or statutory provisions;
20 (b) In excess of the authority of the assessor;
21 (c) Made upon an unlawful procedure;
22 (d) Affected by another error of law;
23 (e) Arbitrary or capricious or characterized by abuse of discretion or clearly
24 unwarranted exercise of discretion; or

25 (f) Not supported and sustainable by a preponderance of evidence as
26 determined by the Louisiana Tax Commission. If the Louisiana Tax Commission
27 finds that an assessment is not supported and sustainable by a preponderance of
28 evidence, the Louisiana Tax Commission shall make its own determination and
29 conclusions of fact by a preponderance of evidence based upon its own evaluation

1 of the record evidence reviewed in its entirety, subject to the provisions of R.S.
2 49:964(G)(6), related to first-hand witness testimony.

3 * * *

4 §1998. Judicial review; generally

5 A.(1)(a) Any taxpayer who has timely paid taxes under protest as required
6 by R.S. 47:2134 or any bona fide representative of an affected tax-recipient body in
7 the state dissatisfied with the final determination of the Louisiana Tax Commission
8 under the provisions of R.S. 47:1989 shall have the right to institute suit within thirty
9 days of the entry of any final decision of the Louisiana Tax Commission in the
10 district court for the parish where the Louisiana Tax Commission is domiciled or the
11 district court of the parish where the property is located ~~contesting~~ for review of the
12 correctness of an assessment by an assessor. Any taxpayer who owns property
13 assessed in more than one parish may institute this suit in either the district court for
14 the parish where the tax commission is domiciled or the district court of any one of
15 the parishes in which the property is located and assessed, provided at least
16 twenty-five percent of the parishes where the property is located are named in the
17 suit. However, if at least twenty-five percent of the parishes are not named in the
18 suit, then suit must be filed in the parish where the property is located.

19 (b)(i) The proceedings in ~~such the~~ the suit shall be tried by preference, ~~whether~~
20 ~~or not out of term time~~[†], at ~~such the~~ the time as fixed by the district court. No new trial
21 or rehearing shall be allowed.

22 (c) If a taxpayer makes application to present additional evidence before the
23 date set for hearing and it is shown that the additional evidence is material and that
24 there were good reasons for failure to timely present it to the assessor, the court may
25 order that the additional evidence be taken by the assessor. The assessor may modify
26 the assessment as a result of the additional evidence and shall file that evidence
27 along with notification of any modifications to the assessment with the reviewing
28 court within the deadline established by the court. The reviewing court may then

1 order that any evidence that is otherwise admissible be admitted for purposes of
2 review.

3 (d) On appeal of the review of the correctness of an assessment by an
4 assessor, the district court may affirm the assessment, it may remand the matter for
5 further consideration or it may reverse or modify the assessment if substantial rights
6 of the appellant have been prejudiced because the decision related to the assessment
7 is:

8 (i) In violation of constitutional or statutory provisions;

9 (ii) In excess of the authority of the assessor;

10 (iii) Made upon an unlawful procedure;

11 (iv) Affected by an error of law;

12 (v) Arbitrary or capricious, characterized by abuse of discretion, or is clearly
13 an unwarranted exercise of discretion; or

14 (vi) Not supported and sustainable by a preponderance of evidence as
15 determined by the reviewing court. If the reviewing court finds that an assessment
16 is not supported and sustainable by a preponderance of evidence, the reviewing court
17 shall make its own determination and conclusions of fact by a preponderance of
18 evidence based upon its own evaluation of the record reviewed in its entirety, subject
19 to the provisions of R.S. 49:964(G)(6), related to first-hand witness testimony.

20 ~~(ii)(e)~~ Any appeal from a judgment of the district court shall be heard by
21 preference within sixty days of the lodging of the record in the court of appeal. The
22 appeal shall be taken thirty days from the date the judgment of the district court is
23 rendered. If ~~such~~ the appeal is timely filed, any amount of taxes that were paid under
24 protest pursuant to R.S. 47:1856(E) shall remain segregated and invested ~~pursuant~~
25 ~~to that Subsection~~ and no bond or other security shall be necessary to perfect ~~such~~
26 the appeal.

27 ~~(iii)(f)~~ In the event the supreme court grants a writ of certiorari, the court
28 shall hear the appeal on the next regular docket of the court.

29 * * *

Proposed law adds ad valorem taxes to the taxes a local collector may collect and removes the exclusion for tax matters within the jurisdiction of the commission. Proposed law further defines a local collector to include an assessor or the commission if they are a party to a proceeding related to appeals for the redetermination of an assessment or the determination of an overpayment.

Present law authorizes a taxpayer to appeal to the board for a redetermination of an assessment or a determination of an overpayment when a taxpayer is aggrieved by an assessment made by a state collector or by a state collector's action or failure to act on a claim for refund or credit of an overpayment. Present law establishes a procedure for a taxpayer to file a petition for payment of taxes under protest.

Proposed law retains present law but specifies that a taxpayer must comply with the present law procedure related to suits for payment of taxes under protest.

Proposed law sets forth a procedure for a relevant party who is aggrieved by an action of a local collector, assessor, or the commission, if the action is appealable to the board. Further authorizes an intervention by the relevant assessor and requires joinder of the relevant assessor under certain circumstances. Proposed law excludes actions concerning local tax sales, the nullification of tax sales, or the contesting of the seizure of movables for collection from this procedure.

Present law provides for the determination of the appellate court that has jurisdiction over decisions or judgments of the board including the court of appeal for the parish where the tax is being litigated, the court the parties stipulate to have jurisdiction, or the court of appeal for the parish of the appellee for a case appealed by a collector.

Proposed law retains present law but provides that if none of the options for review in present law are applicable, the court of appeal designated by the board that has the most connection to the matter or, if none, the court of appeal for East Baton Rouge parish.

Present law requires the commission to value and assess public service properties for purposes of ad valorem taxes. Further requires the commission to give notice of the initial determination of the assessed valuation in writing to a company and the initial determination shall become final if no protest is filed with the commission within 30 days after receipt by the company of the notice of the initial determination. Present law provides for a procedure for a company to protest an initial valuation and a procedure for the company to appeal decisions of the commission.

Proposed law retains present law but authorizes parties to appeal to the board in suits contesting the valuation or assessment of public service properties when the suit affects assessments of property in more than one parish. Further clarifies that references to "reviewing court" in proposed law includes the board.

Present law authorizes the commission to correct or change the assessment of any company in order to make the assessment conform to facts. A company may institute a suit to contest the correctness or legality of any corrections and changes of its assessed valuation by the commission.

Proposed law retains present law related to the authorization for a company to contest the correctness of an assessment but specifies that these suits shall be subject to provisions of present law related to appeals of the final determination of the assessed value of property by the commission.

Present law requires an assessor to annually assess and value property within their jurisdiction for purposes of ad valorem property taxes. Further provides for the assessment procedure and time line an assessor is required to follow in order to notify a property owner of the assessed value of his property. Present law also sets forth a procedure for a property

owner to contest a property's valuation including the establishment of boards of review which consists of the governing authorities in each parish.

Present law requires the commission to conduct public hearings within 10 days of receipt of the assessment lists to hear real and personal property appeals of taxpayers, tax-recipient bodies, or assessors from actions of the board of review.

Proposed law retains present law but requires a review of the correctness of an assessment by an assessor to be confined to review of evidence presented to the assessor prior to the close of the period for inspection of the assessment lists. If a taxpayer makes application to present additional evidence before the date set for hearing on the appeal and the commission finds that the additional evidence is material and there were reasons for failure to timely present the evidence to the assessor, the commission may order the assessor to take the additional evidence. Proposed law authorizes an assessor to modify the assessment because of the additional evidence and to notify the commission of modifications within 15 calendar days of receipt of the additional evidence.

Proposed law authorizes the commission to independently appraise property using provisions of present law related to determining fair market value of property when hearing an appeal addressing the correctness of an assessment of residential property subject to the homestead exemption. Further authorizes the commission to enter that appraisal into evidence for consideration on review of the correctness of the assessment.

Proposed law sets forth the actions the commission or a district court may take when reviewing the correctness of an assessment by an assessor and provides for specific reasons that may warrant the commission or the district court to reverse or modify the assessor's assessment.

Present law authorizes a taxpayer who is dissatisfied with the final determination of the commission concerning the correctness of an assessment to file a suit within 30 days of the entry of a final decision of the commission in the district court for the parish where the commission is domiciled or the district court of the parish where the property is located.

Proposed law retains present law but provides that if a taxpayer makes application to present additional evidence and it is shown that the additional evidence is material and that there were reasons for failing to timely present the evidence to the assessor, the court may order that the additional evidence be taken by the assessor. The assessor may modify the assessment as a result of the additional evidence and shall file that evidence along with notification of a modification of the assessment with the reviewing court within the deadline established by the court.

Present law establishes a procedure for claims against a political subdivision for ad valorem taxes erroneously paid to the political subdivision which includes presenting the claim to the commission within three years of the date of the payment. Present law further provides a procedure for a taxpayer who prevails in their claim for ad valorem taxes erroneously paid to present a claim to the commission to receive a refund of the payments. Present law authorizes an appeal to the district court if an assessor or the commission refuses to approve a claim for a refund.

Proposed law retains present law but authorizes a taxpayer to also appeal to the board.

Present law establishes a procedure for a taxpayer to challenge the correctness of an assessment or a legality challenge by timely paying the disputed amount under protest to the tax collector. Present law provides for the proper party defendants who must be included in these suits.

Proposed law retains present law but provides for the proper party defendants who must be included in a correctness challenge related to appeals of actions by a board of review related

to the inspection of assessment lists and notification and review of assessments and appeals of final determinations by the commission. Further provides that a legality challenge may be brought by a petition for recovery of a tax paid under protest before board which shall provide a legal remedy and right of action for a full and complete adjudication of all questions arising in connection with the tax other than the review of the correctness of value in an assessment by a parish assessor.

Present law authorizes a taxpayer, in cases of an additional assessment, to pay the additional assessment under protest without having to file an additional suit if the taxpayer shows that the principle of law involved in an additional assessment is already pending before the court for judicial determination and if the taxpayer agrees to abide by the pending court's decision.

Proposed law retains present law but specifies that the assessment under protest may also be under consideration by the board.

(Amends R.S. 47:1402(D)(2), (3)(intro. para.), and (5), 1403(B)(6)(c), 1407(3) and (7), 1418(4)(b) and (c), 1431(B), 1436(B), 1437(A), 1856(D)(2) and (3) and (G), 1857(B)(1), 1989(B) and (C), 1998(A)(1) and (D), 2132(D), 2134(B)(1) and (3), (D), and (E)(1); Adds R.S. 47:1402(D)(3)(h) and (i), 1418(4)(d), 1431(F), 1856(H), and 1857(B)(3))