

GREEN SHEET REDIGEST

HB 562

2021 Regular Session

Bourriaque

TAX APPEALS/BOARD. Provides relative to the Louisiana Uniform Local Sales Tax Board and the Louisiana Sales and Use Tax Commission for Remote Sellers.

DIGEST

Present law requires the secretary of the Dept. of Revenue to annually provide for an interagency transfer in the amount of \$132,000 to the Department of State Civil Service, Board of Tax Appeals, to be expended exclusively for the purposes of its Local Tax Division. Present law further requires that amount to be increased by \$5,000 on the first day of each fiscal year.

Proposed law retains present law but changes the increase in the dedication of local funds to the Board of Tax Appeals from \$5,000 to \$12,000 on the first day of each fiscal year.

Present law requires certain board member appointments for the La. Uniform Local Sales Tax Board (board) to be made no later than Aug. 31, 2017.

Proposed law repeals present law.

Present law requires the board to hold its organizational meeting no later than Oct. 15, 2017.

Proposed law repeals present law.

Proposed law authorizes the board to hold executive sessions and provides that records and files of the board are subject to the same confidentiality requirements as the state as provided for in present law.

Present law provides the board is funded through a dedication of a percentage of the total statewide collections of local sales and use tax on motor vehicles.

Proposed law retains present law, but provides the funding of the board through certain dedications shall be as provided for in agreements with local collectors.

Present law provides for funding of the board through a dedication of a percentage of the total statewide collections of local sales and use taxes on motor vehicles, not to exceed:

- (1) In Fiscal Year 2017-2018, one-fifth of 1% of the collections.
- (2) In Fiscal Year 2018-2019, one-quarter of 1% of the collections.
- (3) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of 1% of the collections.

Proposed law repeals provisions of present law pertaining to specific fiscal years and retains present law that provides any budget adopted by the board shall not exceed three-tenths of 1% of the collections.

Present law provides that if tax collections yield insufficient revenue to fulfill dedications for interagency transfers to the Dept. of State Civil Service, Board of Tax Appeals, Local Tax Division the board shall pay any remaining amount necessary to satisfy the dedication. Further provides that the board is authorized to enter into an agreement with the Dept. of State Civil Service, Board of Tax Appeals or the Local Tax Division to pay an amount sufficient to compensate the Local Tax Division.

Proposed law retains present law and adds the stipulation that if tax collections yield insufficient revenue to fulfill the dedication and there is no means of financing available, the board shall pay any remaining amount necessary to satisfy the dedication.

Present law requires the board to adopt a strategic plan for operations. Proposed law retains present law.

Present law provides the strategic plan shall be adopted by July 1, 2018.

Proposed law repeals present law and provides the strategic plan shall be updated not less than once every five fiscal years.

Proposed law adds provisions relative to the collection and administration of certain occupancy taxes collected or administered by the Dept. of Revenue.

Proposed law adds provisions relative to the collection and administration of certain occupancy taxes collected or administered by local governing authorities.

Proposed law further provides that payments to fulfill the dedication for interagency transfers shall be made within 30 days of the beginning of the fiscal year.

Present law establishes the Board of Tax Appeals (BTA) and authorizes the BTA to make certain expenditures.

Proposed law provides that any BTA expenditure funded pursuant to a written agreement shall be included in any budget request or recommendation of the BTA.

Proposed law provides any surplus local revenue may be retained as provided for in present law or held in the local tax division expense fund exclusively for the purposes of the Local Tax Division.

Proposed law changes the requirement that Board of Tax Appeal (board) members who have served on the board for more than two and a half terms within three consecutive terms are ineligible for reappointment to a requirement that members who have served on the board for three full consecutive terms are ineligible for reappointment.

Proposed law adds provisions that allow the BTA to fix salaries of certain board employees pursuant to administrative rules. Proposed law provides if a rule requires the equivalent of classified market rate adjustments, they shall be included in any budget requests or recommendations in the same manner as applicable for other state classified employees.

Proposed law authorizes the BTA to issue protective orders, including an order concerning any subpoena or other discovery.

Present law defines a state collector to include:

- (1) The secretary of the Dept. of Revenue and other duly authorized assistants.
- (2) The assistant secretary of the office of motor vehicles and duly authorized assistants.
- (3) The commissioner of alcohol and tobacco control.
- (4) Any other collector of state taxes or fees, or other state agency where an agency action is appealable to the BTA.
- (5) The agent or successor of any of the offices above when administering a state tax or fee.

Proposed law expands the present law definition of state collector to include state agencies in which the agency action is related to state taxes or fees, including contracts.

Present law provides for certain procedures for the payment of Board of Tax Appeals judgments against the state.

Present law provides that judgments issued by the BTA for the payment of a claim when the amount approved does not exceed \$20,000 shall be paid out of current tax collections without interest. Further limits the total amount of judgments paid in a fiscal year from current collections to two million dollars, unless a higher amount for that fiscal year is approved by the commissioner of administration and the Joint Legislative Committee on the Budget (JLCB).

Present law provides that when the BTA approves a claim against the state and the amount of the claim exceeds \$20,000 but is not more than \$250,000, the claim shall be submitted to the litigation subcommittee of JLCB for review. If the claim is approved by the litigation subcommittee, the approved claim shall be paid out of current tax collections following submission of the authorization to the secretary of the Dept. of Revenue.

Proposed law provides that if the BTA approves a claim for an amount less than the amount claimed by the claimant, the BTA shall submit the new amount to the claimant. Further provides that if the claimant accepts the new amount, the claim shall be approved as a judgment provided for in present law.

Proposed law provides that if the claimant does not accept the new amount, the claim shall be denied.

Proposed law provides that any denied claim shall be subject to prohibitions provided in present law (R.S. 47:1786). Further provides that no cause of action shall be maintained before the BTA or any court for a claim that has been paid pursuant to the provisions of proposed law.

Proposed law provides any amount agreed upon by both parties in a stipulated or consent judgment shall be submitted to the BTA pursuant to present law.

Proposed law authorizes the BTA to issue an amended judgment when required to correct an error or upon joint application of both parties.

Proposed law provides that any stipulated or consent judgment submitted jointly not exceeding \$100,000, shall be paid in the same manner as certain judgments provided for in present law (R.S. 47:1483(B)(1)), during the 45-day period after the last day of the fiscal year, to the extent funds are available after payment of all other approved judgments for the fiscal year pursuant to present law.

(Amends R.S. 47:302(K)(7)(b), 337.102(B)(3) and (5), (I)(1) and (3), and (K), 340(A) and (E)(5), 1402(E)(1) and (2), 1404, 1406, 1418(7)(d), and 1483(C); adds R.S. 47:337.102(C)(10), 338.223, 1408(D)(3), and 1483(A)(2) and (3); repeals R.S. 47:340(I))

Summary of Amendments Adopted by House

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

1. Add provisions relative to the collection and administration of certain occupancy taxes collected or administered by the Dept. of Revenue.
2. Add provisions relative to the collection and administration of certain occupancy taxes collected or administered by local governing authorities.
3. Change the requirement that Board of Tax Appeal (board) members who have served on the board for more than two and a half terms within three consecutive terms are ineligible for reappointment to a requirement that members who have served on the board for three consecutive terms are ineligible for reappointment.

4. Add provisions that allow the board to fix salaries of certain board employees pursuant to administrative rules.
5. Add provisions that any item funded pursuant to a written agreement for a particular service shall be included in any budget request or recommendation for the board.
6. Expand the definition of state collector to include any collector of state taxes or fees or any other state agency where an agency action is appealable to the board or is related to state taxes or fees including contracts.
7. Add provisions related to the payment of certain Board of Tax Appeal judgments, including procedures for a change in claim amount, denial of a claim, and the submission for payment of a claim in an amount not exceeding \$100,000.
8. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Changes the increase in the dedication of local funds to the Board of Tax Appeals.
2. Authorizes the La. Uniform Local Sales Tax Board to hold executive sessions.
3. Provides for the confidentiality of the records and files of the La. Uniform Local Sales Tax Board.
4. Requires any classified market rate adjustments to be included in any budget request or recommendation of the BTA.
5. Authorizes any surplus local revenue to be retained or held in the local tax division expense fund exclusively for the purposes of the Local Tax Division.
6. Authorizes the BTA to issue protective orders, including an order concerning any subpoena or other discovery.
7. Authorizes the BTA to issue an amended judgment when required to correct an error or upon joint application of both parties.
8. To provide for an effective date.
9. Makes technical changes.