

2022 Regular Session

HOUSE BILL NO. 329

BY REPRESENTATIVE ZERINGUE

TAX APPEALS/BOARD: Provides for the payment of certain judgments issued by the Board of Tax Appeals for approved claims

1 AN ACT

2 To amend and reenact R.S. 47:1481(B) and 1483, relative to payment of judgments issued  
3 by the Board of Tax Appeals; to provide for the payment of certain claims approved  
4 by the board; to provide for requirements and limitations; to provide for an effective  
5 date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:1481(B) and 1483 are hereby amended and reenacted to read as  
8 follows:

9 §1481. Authority of board to receive and consider claims against the state

10 \* \* \*

11 B. For purposes of this Part, except when the context clearly indicates  
12 otherwise, the terms defined in this Section shall have the following meanings:

13 (1) ~~"Current collections" shall first mean any current collections of the~~  
14 ~~particular tax at issue, and then current collections of any taxes collected pursuant~~  
15 ~~to Chapters 1, 2, 2-A, 2-B, or 5 of Subtitle II of Title 47 of the Louisiana Revised~~  
16 ~~Statutes of 1950, as amended.~~

17 (2) "Department" shall mean the Department of Revenue.

18 (3)(2) "Secretary" shall mean the secretary of the Department of Revenue.

19 \* \* \*

1           §1483. Payment of approved claims; notification to the legislature; offset of certain  
2                           claims

3           A.(1) ~~If the a claim is approved and it should be an amount not exceeding~~  
4           ~~twenty thousand dollars, by the Board of Tax Appeals shall issue a judgment for~~  
5           ~~payment of an approved claim, stating in the judgment the amount, purposes, and~~  
6           ~~reasons for the judgment. If said claim shall amount to more than twenty thousand~~  
7           ~~dollars and is approved by the board, the chairman of the board, giving all the facts~~  
8           ~~and circumstances in connection therewith~~ with the approved claim, shall report the  
9           judgment to the legislature for its consideration as provided for in this Part. ~~Provided~~  
10           ~~that where such~~ If a claim accrues to more than one person, as for example, the heirs  
11           ~~or legatees of another, and the claim is determined by the board to be properly due~~  
12           and owing, payment ~~thereof~~ to the party or parties asserting the same claim before  
13           the board shall not be denied because of the failure or refusal of others to join in and  
14           assert such the claim; ~~but in such event however,~~ only the portion due such the  
15           claimant or claimants shall be paid ~~and then only if the amount to be paid to each~~  
16           ~~such claimant does not exceed twenty thousand dollars.~~

17           B.(1) ~~Any judgment issued by the board for the payment of an approved~~  
18           ~~claim when the amount approved does not exceed twenty thousand dollars shall be~~  
19           ~~paid out of current collections without interest following submission to the secretary.~~  
20           ~~The total amount of judgments paid in a fiscal year from current collections pursuant~~  
21           ~~to this Subsection shall not exceed two million dollars, unless a higher amount for~~  
22           ~~that fiscal year is approved by the commissioner of administration and the Joint~~  
23           ~~Legislative Committee on the Budget.~~

24           (2) ~~The payment of judgments for approved claims shall be paid by the~~  
25           ~~secretary in the order in which the claims were approved by the board. If the total~~  
26           ~~amount of claims approved by the board and authorized for payment under this~~  
27           ~~Section exceeds the amount authorized pursuant to Paragraph (1) of this Subsection~~  
28           ~~in a fiscal year, the payment of any excess claims shall be issued in the subsequent~~

1       ~~year in the same order of priority and with priority over any claims subsequently~~  
2       ~~approved by the board.~~

3               ~~C. When the board approves a claim against the state and the amount of the~~  
4       ~~claim exceeds twenty thousand dollars but does not exceed two hundred fifty~~  
5       ~~thousand dollars, the claim shall be submitted to the litigation subcommittee of the~~  
6       ~~Joint Legislative Committee on the Budget for review prior to the next regular~~  
7       ~~session of the legislature. If the claim is approved by the litigation subcommittee, the~~  
8       ~~approved claim shall be paid out of current collections without interest following~~  
9       ~~submission of the authorization to the secretary.~~

10              ~~D. When the board has approved a claim against the state for erroneous~~  
11       ~~payments of state taxes and the claim is not paid in full pursuant to this Section, is~~  
12       ~~not paid pursuant to any provision of R.S. 47:1484, and or is not fully appropriated~~  
13       ~~during the next regular session of the legislature following the date of the board's~~  
14       ~~approval, the secretary and the claimant may agree that the payment of the claim~~  
15       ~~may be taken as a nonrefundable offset against the particular tax at issue. If this~~  
16       ~~offset exceeds the amount of taxes due for the claimant, any unused amount may be~~  
17       ~~carried forward against subsequent tax liability for the same tax for a period not to~~  
18       ~~exceed five years. The provisions of this Subsection shall not apply ~~when~~ if the~~  
19       ~~amount of the claim exceeds one million dollars.~~

20       Section 2. This Act shall become effective upon signature by the governor or, if not  
21       signed by the governor, upon expiration of the time for bills to become law without signature  
22       by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
23       vetoed by the governor and subsequently approved by the legislature, this Act shall become  
24       effective on the day following such approval.

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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)]

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HB 329 Original

2022 Regular Session

Zeringue

**Abstract:** Requires all judgments for claims approved by the Board of Tax Appeals to be paid pursuant to a legislative appropriation or in certain cases by offset rather than from current tax collections.

Present law authorizes the Board of Tax Appeals (board) and the secretary of the Dept. of Revenue (DOR), to enter into agreements to allow filing of claims against the state with DOR on forms prescribed by the secretary. Any claim filed with DOR is deemed a filing with the board as of the date the claim is filed with the secretary.

Proposed law retains present law.

Present law requires the secretary of DOR to pay judgments issued by the board for approved claims of \$20,000 or less out of current tax collections without interest. Present law limits the total amount of judgments paid from current collections in a fiscal year to \$2M unless a higher amount is approved by the commissioner of administration and the Joint Legislative Committee on the Budget (JLCB).

Present law requires the secretary of DOR to pay approved claims in the order in which they are approved by the board. If the total amount of approved claims authorized for payment exceeds \$2M in a fiscal year, the payment of any excess claims shall be issued in the subsequent year in the same order of priority and with priority over any claims subsequently approved by the board.

Present law requires claims approved by the board that are between \$20,000 and \$250,000 be submitted to the litigation subcommittee of the JLCB for review prior to the next regular session of the legislature. If the claim is approved by the litigation subcommittee, the approved claim shall be paid out of current tax collections without interest.

Proposed law repeals present law and instead requires all judgments issued by the board for approved claims to be submitted to the legislature for payment through the appropriation process regardless of the amount of the approved claim.

Present law authorizes the secretary of DOR and a claimant to agree that the payment of an approved claim for erroneous payments of state taxes may be taken as a nonrefundable offset against the particular tax at issue if the approved claim is not paid in full or is not fully appropriated during the next regular session of the legislature. If an offset exceeds the amount of the claimant's tax liability, unused offset amounts may be carried forward against subsequent tax liability for the same tax up to five years. However, provisions of present law regarding offset amounts do not apply if the amount of the claim exceeds \$1M.

Proposed law retains present law.

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

(Amends R.S. 47:1481(B) and 1483)