
DIGEST

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SB 444 Reengrossed

2022 Regular Session

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Present law provides for administrative and procedural provisions applicable to tax collection.

Proposed law provides that present law tax collection and administrative provisions shall apply to occupancy taxes collected or administered by the Dept. of Revenue.

Proposed law provides that present law tax collection and administrative provisions may be applied by local collectors to certain occupancy taxes collected or administered by local governing authorities.

Proposed law requires that refund requests of certain occupancy taxes that were paid when not actually due be processed using present law administrative procedures applicable to refund claims.

Present law establishes the Board of Tax Appeals (BTA) which shall be composed of three members appointed by the governor and subject to Senate confirmation who shall be attorneys with tax law experience and who shall be qualified electors of the state. Authorizes the BTA to administer oaths and issue rules, orders, and subpoenas.

Present law provides that a member of the BTA who has served on the board for more than two and one-half terms within three consecutive terms shall be ineligible for reappointment to the board until at least two years from the last day of his last appointment.

Proposed law changes present law with respect to the number of terms a member of the BTA may serve from more than two and one-half terms occurring within three consecutive terms to more than three consecutive full terms.

Proposed law authorizes the BTA to issue protective orders to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including orders 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 requires the taxpayer, the collector, and other parties to proceedings before the BTA to receive notice and an opportunity to be heard in each proceeding for the trial of any redetermination of an assessment, the consideration of a payment under protest petition, for the determination of an overpayment, or other matters to be tried pursuant to the provisions of present law.

Proposed law makes various technical corrections to present law provisions relative to the multiple types of proceedings that come before the BTA.

Present law authorizes courts to enjoin tax preparers that engage in criminal, fraudulent, frivolous, or willful or reckless conduct if the court finds that injunctive relief is appropriate to prevent the recurrence of the conduct.

Proposed law authorizes the Dept. of Revenue to issue cease and desist orders to certain tax preparers that engage in criminal, fraudulent, frivolous, or willful or reckless conduct if the continued conduct creates an immediate threat to taxpayers, however the department may not issue cease and desist orders under proposed law to CPAs, enrolled agents, or attorneys who are authorized to appear before the BTA.

Proposed law authorizes the BTA to issue a temporary restraining order or preliminary injunction while a suit to enjoin is pending if the secretary shows that continued conduct by the preparer creates an immediate threat to taxpayers.

Proposed law provides that if a tax preparer is prohibited from preparing returns as part of a criminal prosecution that prohibition will serve as the injunction order without the department being required to file a separate suit.

Proposed law imposes a penalty of at least \$50 per violation for each return, report, claim for refund, or other claim filed by a tax preparer who violates an injunction, cease and desist, or temporary restraining order.

Proposed law provides that a hearing on a motion alleging a violation of an injunction or order by a tax preparer shall be held within 10 days and further provides that each such violation shall be considered an act of contempt.

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

(Amends R.S. 47:1402(E)(2), 1408(D)(1), 1418(7)(d), 1432(A), 1574.2(A), (B)(intro. para.), and (D); Adds R.S. 47:338.223, 1408(D)(3), and 1574.2(E), (F), and (G))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Technical amendment to clarify that nothing authorizes the secretary to issue a cease and desist order to an attorney who is authorized to appear before the Board.

Summary of Amendments Adopted by House

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

1. Change the number of terms a member of the BTA may serve from more than two and one-half terms occurring within three consecutive terms to more than three consecutive full terms.