

2024 Regular Session

SENATE BILL NO. 191

BY SENATOR REESE

TAX/TAXATION. Provides relative to the enforcement and adjudication of state and local taxes and the Board of Tax Appeals. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(7)(b), 1403(A)(5) and (B)(4), and 1565(C)(2),
3 relative to the enforcement and adjudication of state and local taxes and the Board
4 of Tax Appeals; to provide with respect to disputes concerning taxes; to provide for
5 tax administration; to provide with respect to certain revenues dedicated to the board;
6 to provide relative to ad hoc judges; to provide relative to remote witness testimony;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:302(K)(7)(b), 1403(A)(5) and (B)(4), and 1565(C)(2) are hereby
10 amended and reenacted to read as follows:

11 §302. Imposition of tax

12 * * *

13 K. An additional tax shall be levied as follows:

14 * * *

15 (7)

16 * * *

17 (b) The amount **of local tax** specified in Item (a)(i) of this Paragraph as

1 transferred to the Department of State Civil Service, Board of Tax Appeals, Local
 2 Tax Division shall be increased by fifty-five thousand dollars on July 1, 2015, by
 3 thirty-two thousand dollars on July 1, 2016, and by five thousand dollars on the first
 4 day of each of the subsequent fiscal years. The amounts specified in this
 5 Subparagraph and Subparagraph (a) of this Paragraph shall be transferred by the
 6 secretary within the first thirty days of each fiscal year and the Department of State
 7 Civil Service, Board of Tax Appeals, may retain all funds that are transferred as
 8 directed in this Subparagraph and Subparagraph ~~(b)~~(a) of this Paragraph.

9 * * *

10 §1403. Designation of officers; domicile; quorum; seal

11 A.

12 * * *

13 (5) In the event of a vacancy lasting more than ~~ninety~~ **thirty** days or if the
 14 Local Tax Judge submits a written request for assistance, the supreme court is
 15 authorized to make assignments or appointments for a Local Tax Judge ad hoc in
 16 the same manner as authorized pursuant to Article V, Section 5(A) of the
 17 Constitution of Louisiana, ~~and~~, Notwithstanding any provisions of law to the
 18 contrary, any sitting or retired ad hoc judge so assigned shall receive the
 19 compensation specified in this Chapter for ad hoc appointment ~~due to recusal~~
 20 pursuant to this Paragraph.

21 B.

22 * * *

23 ~~(4) With the consent of all parties or upon the request of the taxpayer in a~~
 24 ~~pre-trial matter involving only a state collector, the~~ The board may allow for a
 25 hearing to be held by telephone, video conference, or similar communication
 26 equipment, including the administration of oaths in proceedings.

27 * * *

28 §1565. Notice of assessment and right to appeal

29 * * *

1 C.

2 * * *

3
4 (2)(a) The determination of an error of fact or of law under this Subsection
5 shall be solely that of the secretary **except as otherwise provided in this**
6 **Subsection**, and no action against the secretary with respect to the determination
7 shall be brought in any court, ~~nor shall any appeal relating thereto be brought before~~
8 ~~the Board of Tax Appeals~~, and no court shall have jurisdiction of any such action,
9 nor the Board of Tax Appeals **except as provided in this Subsection** ~~of any such~~
10 ~~appeal~~; it being the intent of this Subsection only to permit the secretary to correct
11 manifest errors of fact or in the application of the law made by the secretary in
12 making the assessment; however, all reductions of assessments based on such errors,
13 except estimated assessments made due to the failure of the taxpayer to file a proper
14 tax return, must be approved and signed by the secretary, and the assistant secretary
15 or the deputy assistant secretary ~~of~~ **supervising** the office of legal affairs of the
16 Department of Revenue, and shall then be ~~approved~~ **submitted for review** by the
17 Board of Tax Appeals and **if approved shall be** signed by the chairman thereof.
18 Estimated assessments made due to the failure of the taxpayer to file a proper tax
19 return may be corrected by the acceptance of the proper tax return and must be
20 approved by the secretary or his designee.

21 **(b) A person may petition the Board of Tax Appeals following receipt of**
22 **a notice related to a seizure, levy, garnishment, offset, or other collection action,**
23 **whether occurred or intended, related to an assessment that qualifies for relief**
24 **pursuant to Paragraph (1) of this Subsection. If the board finds clear and**
25 **convincing evidence that the otherwise final assessment qualifies for relief**
26 **pursuant to Paragraph (1) of this Subsection it shall order that the matter be**
27 **referred to the secretary for review pursuant to provisions of this Subsection,**
28 **and the assessment shall not be collectible until such time as the assessment has**
29 **been redetermined pursuant to this Subsection. The secretary shall submit any**

1 agreed redetermination to the board for approval in the same manner as
2 provided in Subparagraph (a) of this Paragraph.

3 (c) A person who has been the subject of a collection action related to an
4 otherwise final assessment that qualifies for relief pursuant to this Subsection
5 may file a refund claim with the secretary within the applicable prescriptive
6 period pursuant to R.S. 47:1623 following the secretary's receipt of the funds.

7 * * *

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Emily Toler.

DIGEST

SB 191 Original 2024 Regular Session Reese

Present law requires the secretary of the Department of Revenue to provide an interagency transfer within the first 30 days of the fiscal year out of current collections of the tax collected to the Department of Civil Service, Board of Tax Appeals to be expended exclusively for the purposes of the Local Tax Division.

Proposed law specifies that the distribution of local tax is transferred to the Local Tax Division by the Department of Revenue and otherwise retains present law.

Present law provides that in the event of a vacancy on the local tax judge for the Board of Tax Appeals lasting more than 90 days, the supreme court is authorized to make assignments or appointments in the same manner as authorized by present constitution, any ad hoc judge assigned shall receive the compensation specified for an ad hoc appointment due to recusal.

Proposed law provides that in the event of a vacancy lasting more than 30 days or if the Local Tax Judge submits a written request for assistance, the supreme court is authorized to make assignments or appointments for a Local Tax Judge ad hoc in the same manner as authorized by the present constitution. Any sitting or retired ad hoc judge assigned shall receive the compensation specified in law for an ad hoc appointment pursuant to proposed law.

Present law provides that the Board of Tax Appeals with the consent of all parties or upon the request of the taxpayer in a pre-trial matter involving only a state collector, may allow for a hearing held by telephone, video conference, or similar communication equipment, including the administration of oaths in proceedings.

Proposed law provides that the Board of Tax Appeals may allow for a hearing to be held by telephone, video conference, or similar communication equipment without obtaining the

consent of all parties and otherwise retains present law.

Present law provides that reductions of assessments based on an error of fact or of law shall be approved and signed by the secretary of the Department of Revenue, and the assistant secretary or the deputy assistant secretary of the office of legal affairs, and then approved and signed the chairman by the Board of Tax Appeals.

Proposed law provides that approvals of reductions of assessments based on an error of fact shall be approved and signed by the secretary and signed by the assistant secretary or deputy assistant secretary supervising the office of legal affairs, and then submitted for review to the Board of Tax Appeals, and if approved signed by the board's chairman.

Proposed law authorizes a person to petition the Board of Tax Appeals following receipt of a notice related to a seizure, levy, garnishment, offset, or other collection action, whether occurred or intended, related to an assessment based error of fact or error of law. If the board finds clear and convincing evidence that the final assessment qualifies for relief, it shall order that the matter be referred to the secretary for review. The assessment will become collectible until the assessment has been redetermined. Requires the secretary to submit any agreed redetermination to the board for approval.

Proposed law provides that a person who has been the subject of a collection action related to a final assessment that qualifies for relief may file a refund claim with the secretary within the applicable prescriptive period in law following the secretary's receipt of the funds.

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

(Amends R.S. 47:302(K)(7)(b), 1403(A)(5) and (B)(4), and 1565(C)(2))