

Regular Session, 2014

HOUSE BILL NO. 863

BY REPRESENTATIVES DANAHAY, JOHNSON, RITCHIE, ROBIDEAUX,
WHITNEY, AND WILLMOTT

1 AN ACT

2 To amend and reenact R.S. 36:801.1(A) and R.S. 47:302(K)(6) and (7), 337.2(D),
3 337.45(A)(1) and (B), 337.48(A), 337.51(A), (B), and (C)(2), 337.53(C), 337.54,
4 337.63(A)(1) and (2), (B), and (D), 337.67(B)(3), (C)(3), and (D)(2), 337.77(F),
5 337.81(A)(2) and (C), 337.86(E)(2)(a), 337.101(A)(2)(a), 1401, 1402, 1403(A) and
6 (B), 1406, 1410, 1413, 1431, 1432, 1436, 1437, and 1451, and R.S. 49:968(B)(9), to
7 enact R.S. 36:53(J) and R.S. 47:337.2(A)(1)(c), 337.77(G), 337.81.1,
8 337.86(E)(1)(d), 1407(3), 1414(E), 1417, and 1418, and to repeal R.S. 36:4(B)(1)(p)
9 and R.S. 47:337.51.1 and 337.101(A)(2)(c), (B), and (C), relative to disputes
10 concerning taxes, fees, and claims against the state and its political subdivisions; to
11 provide relative to the composition, compensation, procedures, and jurisdiction of
12 the Board of Tax Appeals; to provide for the dedication of certain revenues for
13 support of the board; to transfer the board to the Department of State Civil Service;
14 to provide with respect to procedures for collection and adjudication of local sales
15 and use tax; to provide for redetermination of certain local sales and use tax
16 assessments and overpayments; to authorize the transfer of certain cases to and from
17 the board and certain courts; to provide for definitions; to provide for effectiveness;
18 and to provide for related matters.

19 Be it enacted by the Legislature of Louisiana:

20 Section 1. R.S. 36:801.1(A) is hereby amended and reenacted and R.S. 36:53(J) is
21 hereby enacted to read as follows:

22 §53. Transfer of boards, commissions, departments, and agencies to Department of
23 State Civil Service

24 * * *

1 J. The Board of Tax Appeals is placed within the Department of State Civil
 2 Service as an independent agency and shall exercise its powers, duties, functions,
 3 and responsibilities in the manner provided for agencies transferred in accordance
 4 with the provisions of R.S. 36:801.1. The State Civil Service Commission, the
 5 Department of State Civil Service, and its director shall in no way interfere with,
 6 review, or change the decisions or operations of the agency so placed. There shall
 7 be a Local Tax Division of the Board of Tax Appeals.

8 * * *

9 §801.1. Transfer; retention of all functions

10 A. The agencies transferred by the provisions of R.S. 36:4(B)(1)(dd), ~~(B)~~
 11 and (18) and (D), 4.1(C) and (G), 53(H) and (J), 209(R), 259(J), 409(N), 509(O),
 12 651(D), and 725(A) shall continue to be comprised and selected as provided by law.

13 * * *

14 Section 2. R.S. 47:302(K)(6) and (7), 337.2(D), 337.45(A)(1) and (B), 337.48(A),
 15 337.51(A), (B), and (C)(2), 337.53(C), 337.54, 337.63(A)(1) and (2), (B), and (D),
 16 337.67(B)(3), (C)(3), and (D)(2), 337.77(F), 337.81(A)(2) and (C), 337.86(E)(2)(a),
 17 337.101(A)(2)(a), 1401, 1402, 1403(A) and (B), 1406, 1410, 1413, 1431, 1432, 1436, 1437,
 18 and 1451 are hereby amended and reenacted and R.S. 47:337.2(A)(1)(c), 337.77(G),
 19 337.81.1, 337.86(E)(1)(d), 1407(3), 1414(E), 1417, and 1418 are hereby enacted to read as
 20 follows:

21 §302. Imposition of tax

22 * * *

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

24 * * *

25 (6) The taxes levied under this Subsection shall be collected by the
 26 Department of Revenue, advised by a sales and use tax commission consisting of
 27 ~~seven~~ nine members appointed as follows: two members appointed by the Louisiana
 28 Municipal Association; two members appointed by the Louisiana School Boards
 29 Association; two members appointed by the Police Jury Association of Louisiana;
 30 two members appointed by the Louisiana Sheriffs' Association; and one member

1 appointed by the Louisiana Association of Tax Administrators. The secretary shall
 2 assess a collection fee, not to exceed one percent of the proceeds of the tax, as
 3 reimbursement for the actual cost of collection of the tax. The department shall keep
 4 the commission informed on a regular basis of the collection and distribution of the
 5 taxes collected, and the commission shall receive a copy of the executive budget
 6 submission of the Local Tax Division of the Board of Tax Appeals.

7 (7)(a) Pursuant to an appropriation by the legislature, the secretary shall
 8 annually provide for an interagency transfer in the amount of one hundred and thirty-
 9 two thousand dollars to the Department of State Civil Service, Board of Tax
 10 Appeals, to be expended exclusively for the purposes of its Local Tax Division, and
 11 thereafter distribute the proceeds of the tax to the central local sales and use tax
 12 collector or, if none, the parish governing authority according to population. The
 13 central local sales and use tax collector or the parish governing authority shall at no
 14 charge distribute the tax proceeds received from the secretary to each political
 15 subdivision within the parish which levies a sales and use tax or receives a portion
 16 of the proceeds of a parishwide sales and use tax levy, in accordance with each such
 17 political subdivision's pro rata share of local sales and use tax receipts collected on
 18 all other transactions subject to local sales and use taxes during the most recent state
 19 fiscal year for which data is available within thirty days of receipt of the proceeds.

20 (b) The amount specified in Subparagraph (a) of this Paragraph as
 21 transferred to the Department of State Civil Service, Board of Tax Appeals, shall be
 22 increased by five thousand dollars on July 1, 2015, and on the first day of each of the
 23 four subsequent fiscal years when the amount distributed pursuant to this Subsection
 24 in the fiscal year immediately preceding that date actually exceeds the amount
 25 distributed in fiscal year 2013-2014. The amounts specified in Subparagraphs (a)
 26 and (b) of this Paragraph shall be transferred by the secretary within the first thirty
 27 days of each fiscal year and the Department of State Civil Service, Board of Tax
 28 Appeals, may retain all funds which are transferred as directed in Subparagraphs (a)
 29 and (b) of this Paragraph.

30 * * *

1 §337.2. Intent; application and interpretation of Chapter

2 A.(1) The intention of the legislature in enacting the provisions of this
3 Chapter is as follows:

4 * * *

5 (c) To provide, in addition to existing judicial remedies, for an impartial,
6 economical, and expeditious forum where a taxpayer may choose to resolve disputes
7 arising under sales and use taxes imposed by local taxing authorities before the
8 Board of Tax Appeals, an independent quasi judicial agency within the Department
9 of State Civil Service; and to provide a uniform remedy for taxpayers appealing
10 assessments or denials or inaction on a refund claim, all for the purpose of promoting
11 uniformity and consistency in the interpretation and application of law governing
12 such taxes.

13 * * *

14 D. However, in the interest of making the assessment, collection,
15 administration, and enforcement of state and local sales tax uniform, it is the
16 intention of the legislature that both the provisions of this Chapter and the provisions
17 of local ordinances which are similar to provisions in Chapters 2, 2-A, 2-B, and 18
18 of this Subtitle shall be interpreted by the Board of Tax Appeals and the courts of
19 this state to have the same meaning and application as the provisions in those
20 Chapters.

21 * * *

22 §337.45. Alternative remedies for the collection of taxes

23 A. In addition to following any of the special remedies provided in this
24 Chapter, the collector may, in his discretion, proceed to enforce the collection of any
25 taxes due under the local ordinance by means of any of the following alternative
26 remedies or procedures:

27 (1) Assessment and distraint, as provided in R.S. 47:337.48 through 337.60;
28 ~~provided that a taxpayer may utilize the mandatory arbitration procedure provided~~
29 ~~for in R.S. 47:337.51.1.~~

30 * * *

1 (b) Pay under protest in accordance with R.S. 47:337.63 and then either file
 2 suit or file a petition with the Board of Tax Appeals, all as provided for in that
 3 Section ~~or request mandatory arbitration pursuant to R.S. 47:337.51.1.~~

4 (3) If the taxpayer has not paid under protest in accordance with the
 5 provisions of R.S. 47:337.63, or pursued an alternative remedy in accordance with
 6 R.S. 47:337.64, or filed an appeal with the Board of Tax Appeals within the thirty-
 7 day period provided for in Paragraph (1) of this Subsection, the assessment shall be
 8 final and shall be collectible by distraint and sale as provided in this Part. If an
 9 appeal for a redetermination of the assessment has been timely and properly filed,
 10 the assessment shall not be collectible by distraint and sale until such time as the
 11 assessment has been redetermined or affirmed by the Board of Tax Appeals or the
 12 court which last reviews the matter.

13 B. If any dealer ~~shall be aggrieved by~~ disputes any findings or assessment
 14 of the collector, he may, within thirty days of the receipt of notice of the assessment
 15 or finding, do any of the following:

16 (1)(a) File an appeal from the decision of the collector directed to ~~any state,~~
 17 ~~city, or federal court of competent jurisdiction~~ the Board of Tax Appeals.

18 (b) Pay under protest in accordance with R.S. 47:337.63, and either file suit
 19 as provided for in that Section, or ~~make a written request for mandatory arbitration~~
 20 ~~pursuant to R.S. 47:337.51.1~~ file a petition with the Board of Tax Appeals as
 21 provided in that Section.

22 ~~(c) Mail a written request for mandatory arbitration pursuant to R.S.~~
 23 ~~47:337.51.1 without payment under protest.~~

24 (2) This Section shall afford a legal remedy and right of action in the Board
 25 of Tax Appeals, or in any state, city, or federal court having jurisdiction of the parties
 26 and subject matter for a full and complete adjudication of any and all questions
 27 arising in the enforcement of the local ordinance and this Chapter as to the legality
 28 of any tax accrued or accruing or the method of enforcement thereof. If an appeal
 29 for a redetermination of the assessment has been timely and properly filed with the
 30 Board of Tax Appeals pursuant to Subparagraph (1)(a) of this Subsection, the

1 assessment shall not be collectible by distraint and sale until the assessment has been
2 redetermined or affirmed by the Board of Tax Appeals or the court which last
3 reviews the matter.

4 (3) A notice of tax due issued pursuant to the provisions of R.S. 47:337.48
5 shall not constitute a finding for purposes of this Subsection.

6 C.

7 * * *

8 (2) The determination of an error of fact or of law under this Subsection shall
9 be solely that of the collector, and no action against the collector with respect to the
10 determination shall be brought in any court, including the Board of Tax Appeals, and
11 no court shall have jurisdiction of any such action, it being the intent of this
12 Subsection only to permit the collector to correct manifest errors of fact or in the
13 application of the law made by the collector in making the assessment; however, all
14 reductions of assessments based on such errors, except estimated assessments made
15 due to the failure of the taxpayer to file a proper tax return, must be approved and
16 signed by the collector. Estimated assessments made due to the failure of the
17 taxpayer to file a proper tax return may be corrected by the acceptance of the proper
18 tax return and must be approved by the collector or his designee.

19 * * *

20 §337.53. Assessment and notice when tax is in jeopardy

21 * * *

22 C. The taxpayer against whom the assessment lies can stay distraint of his
23 property, or sale of his property already distrained, as the case may be, only by the
24 immediate payment of the assessment or by posting with the collector a surety bond
25 for twice the amount of such assessment, or of a lower amount acceptable to the
26 collector, with such sureties as the collector deems necessary. The taxpayer shall
27 have sixty calendar days from the date of payment, or the date of posting bond, to
28 appeal to ~~a court of competent jurisdiction~~ the Board of Tax Appeals for a
29 redetermination of the assessment. During this period, the collector shall hold any
30 payment made in an escrow account. If the taxpayer does not appeal, the collector

1 shall immediately credit such payment to tax collections or proceed to collect from
 2 sureties, if any were given. In the event of an appeal, such payment or demand for
 3 payment from sureties given shall be held in abeyance pending the redetermination
 4 or affirmation of the assessment by the Board of Tax Appeals or the court which last
 5 reviews the matter. Final payment, or collection from sureties, will be for the
 6 amount of the affirmed or redetermined assessment.

7 §337.54. Assessment and claims in bankruptcy and receivership

8 Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy
 9 proceeding, or the appointment of a receiver for any taxpayer in a receivership
 10 proceeding, before any court of this state or of the United States, the collector may
 11 immediately make a determination from any available information or by estimate or
 12 otherwise, of the amount of tax, penalty and interest the taxpayer is liable to pay and
 13 immediately assess ~~said~~ this amount, and by a writing to be retained as a part of his
 14 official records indicate that such assessment has been made. Such assessment may
 15 be made whenever a tax becomes due under the provisions of this Chapter,
 16 regardless of whether it is then payable or not. Claims for such assessments, and
 17 additional interest and attorney fees thereon, shall be presented for adjudication in
 18 accordance with law to the court before which the bankruptcy or receivership
 19 proceeding is pending despite the pendency of delays before assessment provided in
 20 R.S. 47:337.48 through 337.51, or the pendency of an appeal to the collector, the
 21 Board of Tax Appeals, or the courts for a redetermination. However, no petition for
 22 the redetermination of an assessment shall be filed with the collector, the Board of
 23 Tax Appeals, or the courts after an adjudication of bankruptcy or the appointment of
 24 a receiver, unless the petition is accompanied by a certified copy of an order of the
 25 court before which the bankruptcy or receivership proceedings is pending,
 26 authorizing the trustee or receiver to prosecute such appeal.

27 * * *

28 §337.63. Remittance of tax under protest; suits to recover

29 A.(1)(a) Any taxpayer protesting the payment of any amount found due by
 30 the collector or the enforcement of any provision of law in relation thereto shall

1 questions arising in the enforcement of the sales and use tax of a taxing authority as
 2 to the legality of any tax accrued or accruing or the method of enforcement thereof.
 3 In such action, service of process upon the collector shall be sufficient service, and
 4 he shall be the sole necessary and proper party defendant in any such suit.

* * *

6 D. Upon request of a taxpayer and upon proper showing by such taxpayer
 7 that the principle of law involved in an additional assessment is already pending
 8 before the courts for judicial determination or before ~~an arbitration panel as provided~~
 9 ~~for in R.S. 47:337.51~~ the Board of Tax Appeals, the taxpayer, upon agreement to
 10 abide by the decision of the courts, ~~an arbitration panel~~ the Board of Tax Appeals,
 11 or by a final judgment of a court upon a timely appeal of a decision of ~~an arbitration~~
 12 ~~panel~~ the Board of Tax Appeals, may remit the additional assessment under protest,
 13 but need not file an additional suit or ~~make another mandatory arbitration request~~
 14 petition. In such cases, the tax so paid under protest shall be placed in an escrow
 15 account and held by the collector until the question of law involved has been
 16 determined by the courts, ~~an arbitration panel~~ the Board of Tax Appeals, or by a final
 17 judgment of a court upon a timely appeal of a decision of ~~an arbitration panel~~ the
 18 Board of Tax Appeals, and shall then be disposed of as therein provided.

* * *

20 §337.67. Suspension and interruption of prescription

* * *

22 B. The prescriptive period running against any such sales and use tax shall
 23 be interrupted by any of the following:

* * *

25 (3) The filing of any pleading, either by the collector or the taxpayer, with
 26 the Board of Tax Appeals or with any state or federal court.

* * *

28 C. The running of such prescriptive period may also be suspended as
 29 follows:

* * *

1 §337.81. Appeals from the collector's disallowance of refund claim

2 A.

3 * * *

4 (2) The taxpayer may appeal a denial of a claim for refund to ~~a court of~~
5 ~~competent jurisdiction or mail a written request for mandatory arbitration pursuant~~
6 ~~to R.S. 47:337.51.†~~ the Board of Tax Appeals, as provided by law. No appeal may
7 be filed ~~or request for arbitration made~~ before the expiration of one year from the
8 date of filing such claim unless the collector renders a decision thereon within that
9 time, nor after the expiration of ninety days from the date of mailing by certified or
10 registered mail by the collector to the taxpayer of a notice of the disallowance of the
11 part of the claim to which such appeal relates, nor after the expiration of one hundred
12 eighty days from the end of the year in which the collector failed to act.

13 * * *

14 C. In answering any such appeal, the collector is authorized to assert a
15 demand for any tax and additions thereto that he may deem is due for the period
16 involved in the claim for refund or credit, and the Board of Tax Appeals shall have
17 jurisdiction to determine the correct amount of tax for the period in controversy, and
18 to render judgment ordering the refund or crediting of any overpayment or ordering
19 the payment of any additional tax, interest, penalty, attorney fees, and other amounts
20 found to be due.

21 §337.81.1. Board of Tax Appeals' finding of overpayment upon appeal from
22 assessment

23 If the Board of Tax Appeals, pursuant to a hearing of an appeal from an
24 assessment of the collector in accordance with the provisions of R.S. 47:337.51,
25 337.53, or 337.54, finds that there is no tax due and further finds that the taxpayer
26 has made a refundable overpayment of the tax for the period for which the collector
27 asserted the claim for additional tax, the Board of Tax Appeals shall have jurisdiction
28 to determine the amount of the overpayment, and to order that the amount of
29 overpayment be refunded or credited to the taxpayer; however, the Board of Tax
30 Appeals shall not order a refund or credit unless, as part of its decision, it determines

1 that either the petition of appeal in which the refund or credit was requested was filed
2 within the period set out in R.S. 47:337.79, or that a claim for the refund or credit
3 had been filed with the collector within that period.

4 * * *

5 §337.86. Credit for taxes paid

6 * * *

7 E.(1) Notwithstanding any other law to the contrary, no person shall be taxed
8 with respect to a particular event more than once, provided that the person collecting
9 and remitting taxes can produce to the collector documentary evidence to show a
10 good faith effort to recover taxes paid to the incorrect taxing authority. Such
11 documentary evidence shall consist of the following:

12 * * *

13 (d) Notwithstanding any provision of law to the contrary, any taxpayer who
14 receives an assessment and who has complied with any applicable provisions of
15 Subparagraphs (a) through (c) of this Paragraph, may within thirty calendar days of
16 the date of notice, take any action specified in R.S. 47:337.51(A)(1).

17 (2)(a) The collector shall not impose penalties or interest on taxes
18 erroneously paid to another taxing authority unless the erroneous payment was the
19 result of intentional conduct ~~of~~ or gross negligence on the part of the persons
20 collecting and remitting taxes. In instances where a legitimate disagreement exists
21 as to which taxing authority is owed, the involved taxing authorities shall resolve the
22 dispute among themselves through any legal means, including the filing of a rule or
23 petition in the manner provided for in R.S. 47:337.101.

24 * * *

25 §337.101. Procedures to seek uniformity of interpretation of common or local sales
26 tax law

27 A.

28 * * *

29 (2) Such taxpayer or collector may proceed to seek uniformity of
30 interpretation of a rule, regulation, policy or interpretation of sales and use tax laws,

1 B. Each appointment to the board by the governor shall be submitted to the
2 Senate for confirmation.

3 C. ~~The term of members in office prior to twelve o'clock noon on July 16,~~
4 ~~1984 shall be deemed to have terminated as of July 16, 1984, however, any such~~
5 ~~member shall remain in office until his successor is appointed and takes office~~
6 governor shall make the following appointments on or before September 1, 2014:
7 one member with a term expiring February 1, 2016, and one member with a term
8 expiring February 1, 2018. Any subsequent appointments pursuant to this
9 Subsection shall be for either a fixed term of four years or for the remainder of an
10 unexpired term.

11 D.(1) On or before August 1, 2014, the governor shall appoint one member
12 to a term expiring February 1, 2020, from a list of qualified nominees provided by
13 the nominating committee established pursuant to this Subsection. Any subsequent
14 appointments pursuant to this Subsection shall be for either a fixed term of six years
15 or for the remainder of an unexpired term.

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

21 (3) The Local Tax Division Nominating Committee is hereby established to
22 be comprised of eight members who shall be either an attorney licensed to practice
23 law in Louisiana, a certified public accountant, or a parish tax administrator. The
24 committee shall be comprised of the following members:

25 (a) A representative of the Louisiana Association of Business and Industry.

26 (b) A representative of the Society of Louisiana Certified Public
27 Accountants, selected in consultation with the Business and Industry Committee of
28 the Louisiana Association of Tax Administrators.

1 (c) Two representatives of the section on taxation of the Louisiana State Bar
2 Association, with one selected in consultation with the National Bar Association
3 Greater New Orleans Chapter Louis A. Martinet Society.

4 (d) A representative of the Louisiana Municipal Association.

5 (e) A representative of the Police Jury Association of Louisiana.

6 (f) A representative of the Louisiana School Boards Association.

7 (g) A representative of the Louisiana Sheriffs' Association.

8 (4) The secretary-clerk of the board shall maintain the records of the
9 nominating committee, and shall call an organizational meeting of the nominating
10 committee in order for the nominating committee to elect its chairman. The
11 chairman, or a majority of committee members, may call meetings of the committee,
12 and shall provide advance notice of all meetings to the members and to the
13 appointing entities referenced in Paragraph (3) of this Subsection.

14 (5) Six members shall constitute a quorum for the transaction of committee
15 business, and each nomination must be approved by a favorable vote of at least five
16 committee members.

17 E.(1) A board member shall continue to serve until a successor has been
18 appointed. No member may be removed during an unexpired term of office except
19 for good cause shown, which shall be subject to judicial review.

20 (2) A member who has served on the board for more than two and one-half
21 terms occurring within three consecutive terms shall be ineligible for reappointment
22 to the board until at least two years from the last day of his last appointment.
23 However, a member may be reappointed notwithstanding any other provision of law
24 to the contrary, if nominated pursuant to Subsection D of this Section, and service
25 pursuant to that Subsection is not counted for the purposes of any term or service
26 limitation.

27 F. The governor shall establish the compensation to be paid to members of
28 the board, including any additional compensation for its officers. A member's
29 compensation shall not be reduced during their unexpired term of office.

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

2 A.(1) The governor shall designate a chairman from the membership of the
3 Board of Tax Appeals.

4 (2) The member other than the chairman with the longest service on the
5 board shall be its vice chairman, and shall perform duties as may be specified in the
6 rules of the board and delegated by the chairman.

7 (3) The member appointed pursuant to R.S. 47:1402(D) shall be the hearing
8 judge of the Local Tax Division of the board. For the purposes of the Local Tax
9 Division, the judge shall exercise all jurisdiction, authority, and powers of the board
10 and its chairman, including the hearing of cases to be adjudicated in the division and
11 the rendering of orders and judgments in such cases. The remainder of the board
12 may temporarily exercise these functions during any vacancy in this appointment,
13 but may hear and render judgment in a case in the division only if this appointment
14 remains vacant for more than ninety days.

15 B.(1) The principal office and domicile of the board shall be at Baton Rouge,
16 Louisiana.

17 (2) The board may hold meetings at any place within the state, and any
18 member, when designated by the chairman, may act as a hearing judge and conduct
19 hearings for the purpose of receiving testimony, argument, or both and reporting his
20 findings of fact, law, or both to the board for decision or judgment.

21 (3) The time and place of meetings and hearings shall be designated by the
22 chairman, with a view of securing reasonable opportunity to taxpayers to appear
23 before the board with as little inconvenience and expense to ~~taxpayers~~ parties and
24 witnesses as is practicable.

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

29 (5) Upon the motion of the local collector, a hearing in a matter involving
30 only local taxing authorities from a single parish shall be held in that parish. The

1 respective district or other local court shall make available any facilities necessary
2 for the hearing, and any relevant expenses may be taxed as costs, including any costs
3 for a hearing judge in the same amount as specified in R.S. 47:1417(C)(2).

4 (6)(a)(i) Upon the joint motion of all parties in any matter, or pursuant to an
5 election made by the local collector in accordance with the provisions of
6 Subparagraph (b) of this Paragraph, a case filed with the board shall be heard in the
7 board's Local Tax Division.

8 (ii) A case designated to be heard in the Local Tax Division shall be
9 adjudicated as provided for in R.S. 47:1403(A)(3).

10 (iii) A case designated to be heard in the Local Tax Division may thereafter
11 instead be heard and adjudicated by the entire board only upon the joint motion of
12 all parties. However, any board member may exercise the powers granted in R.S.
13 47:1408, and the chairman may issue other non-dispositive orders concerning cases
14 in the division upon the joint motion of all parties or, in the absence of and at the
15 direction of the hearing judge.

16 (b) A local collector may elect in advance to have all cases against that local
17 collector heard in the Local Tax Division. Such election shall be made, or repealed,
18 in the form of an affidavit executed by the local collector. The affidavit shall be
19 effective only for those cases filed with the board against that local collector at least
20 ninety days after the filing of the affidavit with the board's secretary-clerk. The
21 secretary-clerk shall publish a list on the board's website identifying the respective
22 dates on which any such affidavits were filed.

23 * * *

24 §1406. Expenditures

25 The board is authorized to make such expenditures (including expenditures
26 for personal services and for law books, books of reference and periodicals), as may
27 be necessary to efficiently ~~to~~ execute the functions vested in the board. All
28 expenditures of the board shall be allowed and paid, out of any moneys appropriated
29 for the purposes of the board. The board's self-generated revenue from local cases
30 filed with the board pursuant to the provisions of the Uniform Local Sales Tax Code

1 shall be expended exclusively for the purposes of its Local Tax Division, and may
2 be retained by the board and carried forward for such purposes.

3 §1407. Jurisdiction of the board

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

5 * * *

6 (3) All matters related to other jurisdiction otherwise provided by law,
7 including rules to seek uniformity of interpretation of common sales and use tax law
8 or local sales and use tax law, as provided in R.S. 47:337.101(A)(2).

9 * * *

10 §1410. Findings of fact, decisions, and opinions

11 A. The board shall, in each case heard by it, or in any matter referred to it by
12 the collector or in each case submitted to it upon stipulations of agreement and fact,
13 ~~make issue written~~ findings of fact and conclusions of law and make and file a
14 written decision or judgment thereon.

15 B.(1) The board may, in its discretion, issue ~~an opinion in writing~~ written
16 reasons in addition to its ~~findings of fact and~~ decision or judgment.

17 (2) Upon the request of any party, the board shall issue written reasons in
18 addition to its judgment in a case.

19 (3) Any additional written reasons issued pursuant to this Subsection shall
20 be published on the board's website.

21 * * *

22 §1413. Rules and regulations

23 A. In all other matters regarding the conduct of its hearings, the board may
24 prescribe and promulgate rules and regulations not inconsistent with law or the
25 provisions of this Chapter, ~~which rules and regulations when prescribed, adopted and~~
26 ~~promulgated.~~ Upon promulgation, the rules and regulations shall be binding upon
27 parties litigant in any cause over which the jurisdiction of this board shall extend.

28 B. Rules related to the establishment of fees chargeable for filings and for
29 services rendered by the board shall be subject to review, suspension, or veto
30 pursuant to R.S. 49:968 through 970.

1 R.S. 11:1384 as for a district court from funds available to the board, and these
2 expenses may be assessed as costs.

3 (3) Upon entry of an order of recusal concerning the board member presiding
4 over a case in the Local Tax Division, the case shall be reassigned to be heard in
5 accordance with Paragraph (2) of this Subsection, or, upon a joint motion of all
6 parties it may either be heard pursuant to Paragraph (1) of this Subsection or be
7 transferred to the district court of proper venue.

8 D. Notwithstanding any provision of law to the contrary, including Chapter
9 15 of Title 42 of the Louisiana Revised Statutes of 1950, as amended, if any member
10 of the board is recused from a case pursuant to this Section, he may continue to serve
11 as a member of the board while the remainder of the board adjudicates a taxpayer's
12 appeal or claim, but the board member shall have no participation or involvement in
13 any case in which he is recused.

14 §1418. Definitions

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

17 (1) "Board" means the Board of Tax Appeals.

18 (2) "Collector" means the state collector or a local collector, unless specified
19 otherwise.

20 (3) "Local collector" means any of the following:

21 (a) The individual or entity designated as the single collector of the sales and
22 use taxes of any parish, municipality, school board, any other unit of local
23 government, and any special district whose boundary is not coterminous with the
24 state, and their duly authorized assistants in relation to a tax levied by any local
25 political subdivision within the jurisdiction of the Board of Tax Appeals.

26 (b) The agent or successor to any of the above, including any joint
27 commission, authority, or other duly constituted single collection entity, created by
28 an agreement, when administering or collecting the taxes of any local political
29 subdivision within the jurisdiction of the Board of Tax Appeals.

1 C. If a taxpayer disputes an assessment made by a local collector, or a local
2 collector's action or failure to act on a claim for a refund or credit of an overpayment,
3 the taxpayer may appeal to the board for a redetermination of the assessment or a
4 determination of the alleged overpayment, by filing a petition with the board as
5 provided in R.S. 47:337.51, 337.53, or 337.81.

6 §1432. Notice; hearing; decision

7 ~~In~~ A. The taxpayer and the collector shall be afforded notice and opportunity
8 to be heard in each proceeding for the redetermination of an assessment, the
9 consideration of a payment under protest petition, or for the determination of an
10 overpayment notice and opportunity to be heard shall be given to the taxpayer and
11 ~~the collector and a~~ . A decision or judgment in such matters shall be made as quickly
12 as practicable.

13 B.(1) The board has no jurisdiction to declare a statute or ordinance
14 unconstitutional. When the taxpayer or collector has pled the unconstitutionality of
15 a statute or ordinance, the board shall order the case transferred to the district court
16 of proper venue upon the motion of any party if the board finds that the case cannot
17 be resolved without reaching a declaration on the alleged unconstitutionality.

18 (2) A district court shall consider de novo the issues of unconstitutionality
19 pled in any case transferred to it pursuant to this Subsection, but upon the joint
20 motion of all parties and the attorney general, the board may develop a record and
21 make a recommendation to the district court on the issue.

22 C. Except upon the joint motion of all parties, the board shall not consolidate
23 a case against a local collector with a case against a state collector or with a case
24 against one or more other local collectors; however, nothing in this Part shall prevent
25 the board, upon the joint motion of all parties and when in the interest of justice and
26 efficiency, from ordering a consolidated hearing for the adjudication of pending
27 cases, provided that each party's own counsel or qualified representative and
28 witnesses may appear and present its case, and provided that the board shall render
29 a separate judgment for any case brought against a local collector, even when such
30 case is considered in a joint hearing together with another case or cases.

1 be waived or remitted pursuant to ~~R.S. 47:1566~~ applicable law, it shall approve the
 2 action of the collector. Otherwise the board shall reject the proposal to waive or
 3 remit, and it shall then be mandatory upon the collector to assess and collect the
 4 penalty. Nothing in this Section shall be construed to expand the jurisdiction of the
 5 board to reconsider or review a waiver of penalties or any other discretionary
 6 functions of a local collector.

7 Section 3. 49:968(B)(9) is hereby amended and reenacted to read as follows:

8 §968. Review of agency rules; fees

9 * * *

10 B. Prior to the adoption, amendment, or repeal of any rule or the adoption,
 11 increasing, or decreasing of any fee, the agency shall submit a report relative to such
 12 proposed rule change or fee adoption, increase, or decrease to the appropriate
 13 standing committees of the legislature and the presiding officers of the respective
 14 houses as provided in this Section. The report shall be so submitted on the same day
 15 the notice of the intended action is submitted to the Louisiana Register for
 16 publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to
 17 each standing committee electronically if electronic means are available. If no
 18 electronic means are available, the report shall be submitted at the committee's office
 19 in the state capitol by certified mail with return receipt requested or by messenger
 20 who shall provide a receipt for signature. The electronic receipt by the committee,
 21 return receipt or the messenger's receipt shall be proof of receipt of the report by the
 22 committee.

23 * * *

24 (9) The Department of Civil Service and all of the agencies made a part of
 25 it shall submit the report to the House Committee on House and Governmental
 26 Affairs and the Senate Committee on Senate and Governmental Affairs; however,
 27 the Board of Tax Appeals shall submit the report to the House Committee on Ways
 28 and Means and the Senate Committee on Revenue and Fiscal Affairs.

29 * * *

1 Section 4. R.S. 36:4(B)(1)(p) and R.S. 47:337.51.1 and 337.101(A)(2)(c), (B), and
2 (C) are hereby repealed.

3 Section 5. The members of the Board of Tax Appeals on the effective date of this
4 Act shall continue to serve in such capacity at the pleasure of the governor until the
5 appointments to fixed terms are made in accordance with the provisions of this Act.

6 Notwithstanding any provision of law to the contrary, a member of the board shall
7 be eligible for any assignment or appointment made pursuant to Article V, Section 5 of the
8 Constitution of Louisiana, and ad hoc service pursuant to that Section shall not render a
9 retired judge ineligible for an ad hoc appointment pursuant to R.S. 47:1417(C)(2).

10 If any member of the board serving on the effective date of this Act is appointed to
11 a fixed term pursuant to the provisions of this Act, his appointment shall not require
12 additional confirmation by the Senate if he was confirmed or reconfirmed prior to the
13 effective date of this Act. The additional compensation of the hearing judge of the Local Tax
14 Division shall initially be equivalent to the compensation provided by the state for a
15 part-time city court judge.

16 Section 6. Within thirty days of the effective date of this Act, anyone with a matter
17 pending before an arbitration panel or who has properly and timely mailed a request for
18 arbitration that is pending, pursuant to R.S. 47:337.51.1 as it existed prior to this Act, may
19 exercise any right granted to appeal to the Board of Tax Appeals for those matters within the
20 jurisdiction of the Board of Tax Appeals pursuant to this Act, or may pay under protest in
21 accordance with R.S. 47:337.63 and 337.64. An appeal may be taken from an arbitration
22 decision rendered prior to the effective date of this Act pursuant to R.S. 47:337.51.1(C) as
23 it existed prior to this Act. The suspension of any collection action by the collector and the
24 suspension of the running of prescription pursuant to R.S. 47:337.51.1(A)(2) as it existed
25 prior to this Act shall terminate on July 31, 2014.

26 Section 7. Upon the joint motion of all parties, a district court may transfer to the
27 Board of Tax Appeals for adjudication, any matter pending before it on the effective date of
28 this Act if the matter falls within the jurisdiction of the board following the effective date
29 of this Act. For a period of one year following the effective date of this Act, a district court
30 may transfer to the board any matter improperly filed in the district court which should have

1 been filed with the board, and the matter shall be deemed to have been filed with the board
2 on the date of its filing in the district court.

3 Section 8. The one hundred eighty day deadline to appeal a local collector's inaction
4 on a refund claim to the Board of Tax Appeals pursuant to R.S. 47:337.81(A)(2) shall not
5 restrict any appeal filed with the Board of Tax Appeals prior to January 1, 2015.

6 Section 9. Any case filed with the Board of Tax Appeals against a local collector
7 prior to January 1, 2015, shall be heard in the board's Local Tax Division pursuant to the
8 provisions of R.S. 47:1403(B)(6)(a) unless the local collector in its initial answer to the
9 taxpayer's petition prays to have the case heard by the entire board.

10 Section 10. The nomination or nominations made pursuant to R.S. 47:1402(D) may
11 be transmitted to the governor, and any appointments pursuant to that Section may be made
12 at any time following the effective date of this Act.

13 Section 11. Any appeal from a judgment or decision of the board shall be deemed
14 to be governed by the provisions of Chapter 17 of Title 47 of the Louisiana Revised Statutes
15 of 1950, as amended, as in effect on the date that the appeal is filed.

16 Section 12. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana.
19 Section 10 of this Act shall become operative immediately upon the effective date of this
20 Act, and Sections 1 through 9 of this Act shall become operative on July 1, 2014, if the Act
21 which originated as House Bill No. 798 of this 2014 Regular Session of the Legislature is
22 enacted.

1 If vetoed by the governor and subsequently approved by the legislature, this Act shall
2 become effective on July 1, 2014, or on the day following such approval by the legislature,
3 whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____