

2015 Regular Session

HOUSE BILL NO. 473

BY REPRESENTATIVE HAVARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/PROPERTY: Authorizes certain parties to protest the assessed valuation of certain public service property for purposes of ad valorem property tax

1 AN ACT

2 To amend and reenact R.S. 47:1856, relative to the assessed valuation of public service
3 property for purposes of levying ad valorem tax; to provide with respect to the
4 protest of the assessed valuation of certain public service properties; to authorize
5 certain parties to protest such valuations; to provide for the mailing of notices; to
6 require the production of certain documents; to provide for an effective date; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:1856 is hereby amended and reenacted to read as follows:

10 §1856. Notice of valuation, hearings, appeals

11 A.(1) The Louisiana Tax Commission shall give notice of the initial
12 determination of the assessed valuation in writing to the company and the assessor.

13 This notice shall be delivered by certified mail, return receipt requested addressed
14 to, or by personal service upon, the officer or authorized agent of the company
15 responsible for the filing of the annual report and this notice shall be delivered by
16 first class mail to the assessor. Except as provided in R.S. 47:1856(G), in the event
17 that the company or the assessor objects to the initial determination by the Louisiana
18 Tax Commission, it may, within thirty days after receipt of the notice of that initial

1 determination, file a protest in writing to the Louisiana Tax Commission which
2 protest shall fully disclose the reason for protesting the initial determination.

3 (2) The initial determination by the Louisiana Tax Commission shall become
4 final if no protest is filed with the Louisiana Tax Commission within thirty days after
5 receipt by the company or the assessor of the notice of the initial determination.

6 (3) In the event that a protest is filed, the Louisiana Tax Commission shall
7 grant a full and complete hearing to the ~~company~~ protesting party at a time and place
8 to be determined by the Louisiana Tax Commission, but in no case shall the hearing
9 be scheduled more than one hundred eighty days from the date the ~~company~~
10 protesting party filed its written protest in the case of public service property. Such
11 hearing shall not be consolidated with any other hearing with respect to any other
12 protest filed in a different tax year by the taxpayer or by any other taxpayer of an
13 initial determination of assessed valuation by the Louisiana Tax Commission.

14 B. At the hearing, the ~~company~~ protesting party shall assert all objections to
15 the initial determination by the Louisiana Tax Commission and may file a statement
16 under oath specifying each respect in which the initial determination is contested.
17 The ~~company~~ protesting party may also offer full and complete testimony in support
18 of its objections. Within thirty days following the completion of the hearing, the
19 Louisiana Tax Commission shall notify the ~~company~~ protesting party, by the method
20 specified in Subsection A of this Section, of its final determination.

21 C. Should the ~~company~~ protesting party not appear for a hearing scheduled
22 pursuant to the provisions of Subsection A, or should the ~~company~~ protesting party
23 fail to request a hearing on the initial determination by the Louisiana Tax
24 Commission, the initial determination shall become the final determination of the
25 Louisiana Tax Commission.

26 D.(1) Any ~~company that is~~ protesting party dissatisfied with the final
27 determination of assessed valuation by the Louisiana Tax Commission may institute
28 suit appealing the correctness or legality of such final determination of assessed
29 valuation for taxation by the Louisiana Tax Commission. However, to state a cause

1 of action, the petition instituting such suit shall name the Louisiana Tax Commission
2 as defendant and shall set forth not only the final determination of assessed valuation
3 for taxation made by the Louisiana Tax Commission appealed from, but also the
4 assessed valuation for taxation that the ~~company~~ protesting party deems to be correct
5 and legal and the reasons therefor.

6 (2) The proceedings in such suit shall be tried by preference, ~~whether or not~~
7 ~~out of term time~~⁺, ~~at such~~ at a time as fixed by the district court. No new trial or
8 rehearing shall be allowed.

9 (3) Any appeal from a judgment of the district court shall be heard by
10 preference within sixty days of the lodging of the record in the court of appeal. The
11 appeal shall be taken thirty days from the date the judgment of the district court is
12 rendered. If such appeal is timely filed, any amount of taxes that were paid under
13 protest pursuant to Subsection E of this Section shall remain segregated and invested
14 pursuant to Subsection E of this Section and no bond or other security shall be
15 necessary to perfect such appeal.

16 (4) In the event the supreme court grants a writ of certiorari, the court shall
17 hear the appeal on the next regular docket of the court.

18 E. Any company instituting suit under the provisions of Subsection D of this
19 Section shall pay the disputed portion of its taxes under protest to the officer or
20 officers designated by law for the collection of such taxes and shall cause notice or
21 notices to issue in such suit to such officer or officers as provided in R.S.
22 47:2134(B). However, the portion of taxes that are not in dispute by the taxpayer
23 shall be paid without being made subject to the protest.

24 F.(1) If the assessed valuation finally determined by the court is greater than
25 the ~~company's own~~ assessed valuation determined by the Louisiana Tax
26 Commission, the court shall enter judgment against the company for the additional
27 taxes due together with interest at the actual rate earned on the funds paid under
28 protest, segregated and invested, which interest shall be paid solely from such funds.
29 In any case in which a judgment is entered against the company, each tax recipient

1 body shall remit an amount equal to ten percent of the proceeds received pursuant
2 to the judgment to the Louisiana Tax Commission, which shall then forward such
3 amount directly to the state treasurer.

4 (2) If the taxpayer prevails, the court shall enter judgment against the officer
5 or officers designated by law for the collection of such taxes ordering such officer
6 or officers to immediately refund to the company the amount of any overpayment of
7 taxes together with interest at the actual rate earned on the funds paid under protest,
8 segregated and invested during the period, from the date such funds were received
9 by such officer or officers to the date of such refund or refunds, which interest shall
10 be paid solely from such funds.

11 G. Any taxpayer or assessor asserting that a law or laws, including the
12 application thereof, related to the valuation or assessment of public service properties
13 is in violation of any act of the Congress of the United States, the Constitution of the
14 United States, or the constitution of the state shall file suit in accordance with the
15 provisions of R.S. 47:2134(C) and (D). The provisions of R.S. 47:1856(E) and (F)
16 shall be applicable to such proceedings; however, any party filing suit in accordance
17 with the provisions of this Section shall ensure that the following are parties to the
18 suit: the taxpayer, the tax commission, and all affected assessors and the officers
19 responsible for the collection of any taxes owed pursuant to such assessment ~~shall~~
20 ~~be made parties to such suit.~~ If such suit affects assessments of property located in
21 more than one parish, such suit may be brought in either the district court for the
22 parish in which the tax commission is domiciled or the district court of any one of
23 the parishes in which the property is located and assessed. No bond or other security
24 shall be necessary to perfect an appeal in such suit. Any appeal from a judgment of
25 the district court shall be heard by preference within sixty days of the lodging of the
26 record in the court of appeal. The appeal shall be taken thirty days from the date the
27 judgment of the district court is rendered.

28 H. The authority granted in this Section to an assessor to object to an initial
29 determination of assessed valuation of property by the Louisiana Tax Commission

1 shall not apply to assessments of property owned by telegraph, telephone, and
 2 telecommunication companies. In cases where an assessor objects to an initial
 3 determination of assessed valuation of property, the Louisiana Tax Commission shall
 4 provide copies of working documents to the party protesting the assessment which
 5 indicates the basis of the assessment and the methodology used by the Louisiana Tax
 6 Commission in determining the fair market value of the property. These documents
 7 shall be provided to the party protesting the assessment within thirty calendar days
 8 of receiving the notice of protest.

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

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)]

HB 473 Original

2015 Regular Session

Havard

Abstract: Extends the authority to protest the assessed valuation of certain public service properties to an assessor affected by the assessment.

Present law requires the La. Tax Commission (LTC) to give notice in writing of the initial determination of the assessed valuation of public service property to the company by certified mail or by personal service upon the officer or authorized agent of the company responsible for the filing of the annual report. A company may object to the assessed valuation within 30 days after receipt of the notice of the initial determination by filing a written protest to the LTC fully disclosing the reason for protesting the initial determination. The initial determination by the LTC shall become final if no protest is filed within 30 days after receipt of the initial determination.

Proposed law retains present law and extends the authority to protest the assessed valuation in the initial valuation by the LTC to an assessor affected by the assessment. Further requires the notice to these parties to be delivered by first class mail.

Present law requires the LTC to grant a full hearing to the company not more than 180 days from the date the written protest is filed. Further provides for the assertion of objections to the initial determination, the filing of statements by the parties, the party's appearance at the hearing to protest the assessed valuation, and the right to appeal the final determination of the assessed valuation by the LTC or a district court.

Proposed law retains present law but specifies that the hearing rights apply to the protesting party rather than to the company.

Present law provides that any taxpayer asserting that a law related to the valuation or assessment of public service properties violates a federal or state law or the federal or state constitution, the provisions of present law relative to the payment of the disputed portion of taxes paid under protest shall apply. Further requires that the LTC and all affected assessors and the officers responsible for the collection of any taxes owed be made parties to such suit.

Proposed law retains present law but specifies that any party filing suit in accordance with present law shall ensure that the taxpayer is also made a party to the suit.

Proposed law limits the authority granted in proposed law to an assessor to object to an initial determination of assessed valuation of property by the La. Tax Commission from extending to assessments for property owned by telegraph, telephone, and telecommunication companies. Further requires the La. Tax Commission to provide copies of working documents to the party protesting the assessment which indicates the basis of the assessment and the methodology used in determining the fair market value of the property within 30 calendar days of receiving the notice of protest.

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

(Amends R.S. 47:1856)