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

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SB 177 Engrossed

DIGEST  
2015 Regular Session

Adley

Proposed constitutional amendment provides that any claim for an income tax or corporate franchise tax credit for ad valorem property taxes paid on the property provided for in the proposed constitutional amendment shall not be allowed in Fiscal Year 2015-2016. One-tenth of each such tax credit is allowed to a claimant each Fiscal Year thereafter, beginning in Fiscal Year 2016-2017.

Proposed constitutional amendment requires the Revenue Estimating Conference, each fiscal year beginning with FY 2015-2016, to determine the net increase in taxes collected during each fiscal year because of the effect on income and franchise tax credits of the ad valorem property tax exemptions and reductions set forth below provided in the proposed constitutional amendment. Such determination must be approved by the Joint Legislative Committee on the Budget. That amount is credited by the Treasurer to a special fund created in the state treasury to be known as the Tax Credit Reduction Fund. The money in the Tax Credit Reduction Fund must be used solely as follows in the following priorities:

First, the money in the fund shall be appropriated by the legislature each fiscal year to fund the Minimum Foundation Program [MFP] in an amount sufficient to ensure that each city and parish school system receives its proportionate amount of funding allocated to the system as provided in the MFP Formula approved by the legislature in the 2015 Regular Session, or the most recently approved formula prior to such Session, including the combined state and local contributions. The proposed constitutional amendment states that its intention is that no city and parish school system shall have its MFP Formula allocation reduced as a result of the effect of the implementation of the proposed constitutional amendment on such city and parish school system's contribution.

Second, the balance of money remaining in the fund must be appropriated by the legislature for any purposes as determined by the legislature.

The money in the fund is to be invested by the Treasurer in the same manner as money in the state general fund and interest earned on the investment of the money is credited to the fund. All unexpended and unencumbered money in the fund at the end of the year is to remain in the fund.

Present law allows a refundable income or corporate franchise tax credit for ad valorem property taxes paid on:

- (1) Inventory held by manufacturers, distributors, and retailers, and on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.
- (2) Vessels, including ships, oceangoing tugs, towboats, and barges, principally operated in

Outer Continental Shelf Lands Act Waters.

Proposed constitutional amendment exempts the same property from ad valorem property taxes.

Present constitution requires property classified as "public service properties, excluding land" to be assessed by the Louisiana Tax Commission at 25% of fair market value and authorizes the legislature to enact laws defining "public service properties".

Present law defines one of the "public service properties" as the property owned or used but not otherwise assessed in the state in the operations of a "telephone company". "Telephone company" is defined as a company primarily engaged in the business of transmitting telephone messages within, through, into, or from this state, but excludes from the term any company that:

- (1) Primarily is engaged in the business of owning, operating, or managing a radio common carrier, as defined in present law, or a public "for hire" radio service.
- (2) Primarily is engaged in the business of providing a service of radio communications between mobile and base stations, between mobile and land stations, or between two or more mobile stations, including but not limited to any cellular service, paging service, or other forms of mobile or portable communications service.

Present law allows a refundable income or corporate franchise tax credit for 40% of the aggregate ad valorem property taxes paid by a "telephone company" as defined in present law on the telephone company's "public service properties" as defined in present law which are assessed by the Louisiana Tax Commission at 25% of fair market value pursuant to present law.

Proposed constitutional amendment requires property classified as "telephone company properties, excluding land" to be assessed by the Louisiana Tax Commission at 15% of fair market value. Defines "telephone company property" as the property owned or used but not otherwise assessed in the state in the operation of a company defined using the same language in the proposed constitutional amendment as "telephone company" is defined in present law.

Proposed constitutional amendment requires retroactive application to Tax Year 2015 so that the Louisiana Tax Commission and assessors must exempt or reassess property according to the terms of the proposed constitutional amendment and any ad valorem property taxes and associated charges paid for such tax year not in accordance with the terms of the proposed constitutional amendment must be refunded.

Present constitution requires all property subject to ad valorem property taxation to be reappraised and valued at intervals of not more than four years.

Present constitution provides that the total amount of ad valorem property taxes collected by any taxing authority in the year in which property is reappraised and revalued shall not be increased or decreased because of a reappraisal or valuation above or below the total amount of ad valorem taxes collected by that taxing authority in the year preceding implementation of the reappraisal and

valuation.

Proposed constitutional amendment provides that a decrease in the total amount of ad valorem property taxes collected by a taxing authority because of the implementation of the proposed constitutional amendment shall not authorize the tax authority to adjust its millages as provided in the present constitution as set forth above.

Specifies submission of the amendment to the voters at the statewide election to be held on October 24, 2015, only if the Legislative Auditor provides written certification to the Secretary of State that funds have been appropriated by the legislature in a law which has become effective which, upon receipt by an ad valorem property taxing authority, will be sufficient to offset the decrease in the total amount of ad valorem taxes collected by such taxing authority because of the implementation of the provisions of this proposed amendment.

Similarly, the proposed constitutional amendment provides that it shall only be effective for a Tax Year in which the Legislative Auditor makes the same written certification described above, and further, that the appropriation must be a direct appropriation "to state aid" to local government for which local government determines the expenditure. The provisions of Const. Art. VII, Sec. 10(F)(1) and (2) (concerning methods for adjusting appropriations in order to eliminate a projected deficit) are not applicable to nor do they affect such appropriations

(Amends Const. Art. VII, Sec. 18(B) and (D); adds Const. Art. VII, Sec. 10.15, Sec. 21(C)(20) and (21), and Sec. 21.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Expanded the Original Bill, which exempted only inventory held by manufacturers, distributors, and retailers, and natural gas, to include all of the other matters set forth in the Digest above.