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## DIGEST

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HB 583 Reengrossed

2019 Regular Session

Dwight

**Abstract:** Extends the jurisdiction of the Board of Tax Appeals to matters of unconstitutional taxes and petitions for declaratory judgment or other matters related to the constitutionality of laws or ordinances, or the validity of a regulation, relating to taxes and fees.

Present law authorizes state courts to provide a legal remedy in cases where taxes are claimed to be an unlawful burden upon interstate commerce or when the collection of taxes violates any Act of Congress, the U.S. Constitution, or the Constitution of La.

Proposed law retains present law and extends this jurisdiction to the Board of Tax Appeals (the board) to handle such cases. Proposed law also authorizes state courts and the board to provide a legal remedy for cases where tax are claimed to be unconstitutional under any provision of the U.S. Constitution or the Constitution of La.

Present law authorizes a court of competent jurisdiction to determine in an action for declaratory judgment the validity or applicability of a rule. Proposed law retains present law and additionally authorizes the board to make such determination.

Present law provides for the jurisdiction of the board over matters of appeals, waiver of penalties, rules, petitions, claims against the state, and incidental demands. Proposed law retains present law and additionally extends the jurisdiction to include petitions for declaratory judgment related to the constitutionality of laws or ordinances, or the validity of a regulation concerning any matter relating to any state or local tax or fee not within the jurisdiction of the La. Tax Commission. Proposed law extends jurisdiction of all matters related to state or local taxes or fees.

Present law includes collectors responsible for collecting local taxes where an action is appealable to the board in the definition of local collector. Proposed law amends the definition to include collectors responsible for collecting local fees and excludes actions appealable to the board and tax matters within the jurisdiction of the La. Tax Commission.

Present law authorizes an aggrieved taxpayer to appeal to the board for matters related to assessments or determinations of alleged overpayment. Proposed law retains present law and additionally authorizes aggrieved parties to petition the board over petitions for declaratory judgment related to the constitutionality of laws or ordinances, or the validity of a regulation.

Proposed law requires an action seeking the declaration that a new law is unconstitutional solely on the basis of noncompliance by the legislature shall be brought by declaratory action against the state

and the presiding officers of the legislature in the 19<sup>th</sup> JDC with service being perfected upon the attorney general.

Present law grants the courts of appeal the exclusive jurisdiction over the decisions and judgments made by the board. Proposed law retains present law and additionally grants this appellate jurisdiction to the supreme court.

Present law states that the Board of Tax Appeals has no jurisdiction to declare a statute or ordinance unconstitutional. The board must order the case to be transferred to the proper district court venue. The district court will determine the constitutionality and then may order the case to be remanded back to the board. Proposed law repeals present law.

Present law authorizes a collector to enforce the collection of taxes through an ordinary suit under provisions of law regulating actions for the enforcement of obligations.

Proposed law provides that such suits shall be before the board or any court of competent jurisdiction.

Effective Jan. 1, 2020, if the proposed amendment of Article VII, and addition of Article V, Section 35 of the Constitution of La. contained in the Act which originated as House Bill No. 428 of this 2019 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:337.45(A)(3), 337.63(C), 337.97, 1407(3), 1418(4)(b), 1435(A), (C), and (D), 1561(A)(3), and 1576(D); Adds R.S. 47:1407(6) and 1431(D); Repeals R.S. 47:1432(B))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Make technical changes.
2. Allow for an ordinary suit to enforce the collection of taxes to be brought before the Board of Tax Appeals or any court of competent jurisdiction.
3. Extend the proposed law jurisdiction of the Board of Tax Appeals to include petitions for other actions related to the constitutionality of a law or ordinance, or validity of a regulation, concerning any matter relating to any state or local tax or fee not under the jurisdiction of the La. Tax Commission.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Expand the jurisdiction of the board to include all matters related to state or local taxes or fees.
3. Require actions seeking a declaration that a new law is unconstitutional based solely on noncompliance shall be brought by a declaratory action against the state and its officers in the 19<sup>th</sup> JDC with service upon the attorney general.