

2020 Regular Session

SENATE BILL NO. 396

BY SENATOR ABRAHAM

TAX/AD VALOREM. Authorizes and provides for cooperative endeavor agreements between local governmental subdivisions and other entities that may require payments in lieu of ad valorem taxes. (See Act)

1 AN ACT

2 To amend and reenact R.S. 33:9021(8) and (10), and 9022(1) and to enact R.S. 33:2759,  
3 relative to ad valorem tax exemptions; to provide for payments in lieu of taxes  
4 pursuant to certain cooperative endeavor agreements; to provide relative to  
5 procedures for the validity of certain cooperative endeavor agreements; to require  
6 cooperative endeavor agreement approval; to provide for limitations and  
7 requirements; to provide for definitions; to provide for effectiveness; and to provide  
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:9021(8) and (10), and 9022(1) are hereby amended and reenacted  
11 and R.S. 33:2759 is hereby enacted to read as follows:

12 **§2759. Cooperative endeavor agreements authorizing payments in lieu of ad**  
13 **valorem taxes**

14 **A.(1) One or more local governmental subdivisions or any other entities**  
15 **having ad valorem taxing authority may enter into a joint or separate**  
16 **cooperative endeavor agreement that provides for payments in lieu of ad**  
17 **valorem taxes imposed by the taxing authority that is a party to the cooperative**

1 endeavor agreement, with owners of property eligible for the property tax  
2 exemption provided for manufacturing establishments as described in Article  
3 VII, Section 21(F) of the Constitution of Louisiana.

4 (2) The cooperative endeavor agreement shall apply only to taxing  
5 authorities that are parties to the agreement. A nonparticipating taxing  
6 authority shall not be bound by the agreement and its ad valorem taxes shall  
7 continue to be billed and collected without regard to the provisions of this  
8 Section.

9 (3) The assessor for the parish where the property subject to the  
10 proposed cooperative endeavor agreement is located shall be consulted in  
11 connection with the negotiation of terms of the cooperative endeavor agreement.

12 (4) The property owner requesting to participate in payments in lieu of  
13 taxes shall provide a copy of the proposed cooperative endeavor agreement and  
14 all other relevant information to the Department of Economic Development for  
15 review. The property owner shall receive a written summary of the estimated  
16 direct, indirect, and induced economic impacts of the project from the  
17 Department of Economic Development prior to scheduling any public hearing.

18 (5) Prior to granting approval for a taxing authority to enter into a  
19 cooperative endeavor agreement, a public hearing shall be conducted by the  
20 parish and municipal governing authorities, the school board, and the sheriff.  
21 Notice of the hearing shall be published in the official journal of the applicable  
22 taxing authority at least once, no later than fourteen days prior to the hearing,  
23 or if there is no official journal, in a newspaper having general circulation in the  
24 parish. The notice shall inform the public where a copy of the proposed  
25 cooperative endeavor agreement may be obtained and the time and place of the  
26 hearing.

27 (6) Prior to the taxing authority executing a cooperative endeavor  
28 agreement for a payment in lieu of taxes, the cooperative endeavor agreement  
29 shall be approved by the following:

1           **(a) The parish governing authority representing the parish and all parish**  
2           **taxing authorities located outside the boundary of any municipality that**  
3           **receives a millage, evidenced by a resolution.**

4           **(b) The school board, evidenced by a resolution.**

5           **(c) The municipal governing authority, representing municipalities and**  
6           **all municipal taxing authorities that receive a millage, evidenced by a**  
7           **resolution.**

8           **(d) The sheriff, evidenced by a letter.**

9           **B. Any property subject to a cooperative endeavor agreement that**  
10           **requires payments in lieu of ad valorem taxes shall be exempt from ad valorem**  
11           **taxation during the term or terms of the cooperative endeavor agreement, and**  
12           **to the extent provided for in the cooperative endeavor agreement, as authorized**  
13           **under Article VII, Section 21(O) of the Constitution of Louisiana. Cooperative**  
14           **endeavor agreements entered into pursuant to this Section shall be for a term**  
15           **of not more than twenty-five years. Any cooperative endeavor agreement**  
16           **entered into that requires payments in lieu of ad valorem taxes may provide for**  
17           **a reduction in ad valorem taxes. All property exempted shall be listed on the**  
18           **assessment rolls and such information shall be submitted to the Louisiana Tax**  
19           **Commission.**

20           **C. Except as otherwise provided in this Section, property that has been**  
21           **subject to a contract of exemption as provided in Article VII, Section 21(F) of**  
22           **the Constitution of Louisiana shall be ineligible for a cooperative endeavor**  
23           **agreement that requires payments in lieu of ad valorem taxes. Notwithstanding**  
24           **the foregoing, an ad valorem taxing authority may negotiate and enter into a**  
25           **cooperative endeavor agreement with a property owner for payments in lieu of**  
26           **ad valorem taxes during the first four years of a contract of exemption allowed**  
27           **by Article VII, Section 21(F) of the Constitution of Louisiana as set forth in this**  
28           **Section. Any cooperative endeavor agreement negotiated during the first four**  
29           **years of a contract of exemption shall require the property owner to pay an**

1 amount specified in the cooperative endeavor agreement to offset the abatement  
2 of ad valorem taxes that was permitted during the time the property was subject  
3 to a contract of exemption as provided in Article VII, Section 21(F) of the  
4 Constitution of Louisiana.

5 D. Payment obligations, transferability, collection procedures that may  
6 include the designation of a collector, and any other matters relating to the  
7 payment and collection of payments made in lieu of ad valorem taxes shall be  
8 set forth in the cooperative endeavor agreement authorized by this Section.

9 E. In order to provide a uniform, expeditious, and equitable procedure  
10 to determine the validity of a cooperative endeavor agreement authorized under  
11 this Section, as well as any transaction contemplated thereby, a suit to  
12 determine the validity of an agreement may be filed as provided in R.S. 13:5121  
13 et seq., in the district court having jurisdiction for any party to the agreement  
14 in the same manner and as though the agreement constitutes an issuance of  
15 bonds by the taxing authority.

16 F. As used in this Section, "manufacturing establishment" means a new  
17 plant or establishment or an addition or additions to any existing plant or  
18 establishment that engages in the business of working raw materials into wares  
19 suitable for use or which gives new shapes, qualities, or combinations to matter  
20 that already has gone through some artificial process.

21 \* \* \*

22 §9021. Findings, declarations of necessity, and purpose

23 It is hereby found and declared that:

24 \* \* \*

25 (8) Public-private partnerships ~~that~~ which take advantage of the special  
26 expertise and experience of representatives of the private sector and other  
27 cooperative endeavor agreements can be among the most effective programs to  
28 encourage and maintain economic development.

29 \* \* \*

1 (10) It is in the best interest of the state of Louisiana and of its regions,  
 2 parishes, and municipalities to encourage, create, and support public-private  
 3 partnerships **and other cooperative endeavor agreements** and to permit and  
 4 encourage participation by representatives of private-sector industries which may  
 5 benefit from economic development programs, while providing appropriate  
 6 protections for the public interest.

7 §9022. Definitions

8 The following terms, whenever used or referred to in this Chapter, shall have  
 9 the following meaning unless a different meaning is otherwise clearly indicated in  
 10 the context:

11 (1) "Cooperative endeavors" means any form of economic development  
 12 assistance between and among the state, its local governmental subdivisions,  
 13 political corporations, public benefit corporations, the United States or its agencies,  
 14 or any public or private association, corporation, or individual. The term  
 15 "cooperative endeavors" shall include but not be limited to cooperative financing,  
 16 cooperative development, **agreements providing for payments in lieu of taxes**, or  
 17 any other form of cooperative economic development activity.

18 \* \* \*

19 Section 2. This Act shall take effect and become operative if and when the proposed  
 20 amendment of Article VII, Section 21 of the Constitution of Louisiana contained in the Act  
 21 which originated as Senate Bill No. 272 of this 2020 Regular Session of the Legislature is  
 22 adopted at a statewide election and becomes effective.

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

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DIGEST

SB 396 Engrossed 2020 Regular Session Abraham

Proposed law authorizes a local governmental subdivision or other taxing authority (hereinafter "taxing authority") to enter into a cooperative endeavor agreement that provides for payments in lieu of ad valorem taxes imposed by that taxing authority, subject to the approval of the parish governing authority, the school board, the municipal governing authority, and the sheriff as evidenced by the adoption of a resolution for that purpose, or in the case of a sheriff, a letter.

Proposed law requires that the tax assessor be consulted in the negotiation of the cooperative endeavor agreement terms.

Proposed law requires that a public hearing be held prior to the adoption of a resolution for the approval of a cooperative endeavor agreement pursuant to proposed law. Public notice is required in the form of advertisement in the official journal of the taxing authority, or in the absence of an official journal, its local equivalent, at least once no later than 14 days prior to the hearing. The public notice shall provide for where a copy of the draft cooperative endeavor agreement may be obtained and the time and place of the hearing.

Proposed law requires the business requesting the approval of the cooperative endeavor agreement to provide a copy of the proposed agreement to the Dept. of Economic Development (DED) for review. The public hearing cannot be scheduled until the business receives a written summary by DED of the economic impacts of the project.

Proposed law provides that any property subject to an agreement shall be exempt from ad valorem taxation or may provide for a reduction in ad valorem taxes during the term of the agreement to the extent provided for in the agreement.

Proposed law limits cooperative endeavor agreements entered into for payment in lieu of taxes to a term of no more than 25 years.

Proposed law provides that a cooperative endeavor agreement shall have no application to any ad valorem tax of a taxing authority that is not a party to the agreement.

Proposed law limits eligibility for the exemption to the property of a manufacturing establishment that qualifies for the industrial tax exemption.

Proposed law further prohibits eligibility for this exemption for a manufacturing establishment that has had a contract for the industrial tax exemption, unless it is within the first four years of the industrial tax exemption contract.

Proposed law requires that exempt properties be listed on the assessment rolls and information concerning those properties be submitted to the La. Tax Commission.

Proposed law provides that administrative provisions concerning the collection of monies due under an agreement shall be the same as those for ad valorem taxes. Further, the validity of an agreement, as well as any transaction contemplated thereby, may be determined by the filing of a suit as provided in present law, in the district court having jurisdiction for any party to the agreement in the same manner and as though the agreement constitutes an issuance of bonds by the taxing authority.

Present law defines a "cooperative endeavor agreement" as a form of economic development assistance between and among the state and local governments and other entities.

Proposed law retains present law and adds "agreements providing for payments in lieu of taxes" to the definition of "cooperative endeavor agreement".

Proposed law defines "manufacturing establishment" as a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process.

Effective if and when Senate Bill No. \_\_\_\_ of the 2020 Regular Session is enacted and becomes effective.

(Amends R.S. 33:9021(8) and (10), and 9022(1); adds R.S. 33:2759)