

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)

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

A.(1) One or more local governmental subdivisions or any other entities having ad valorem taxing authority may enter into a joint or separate cooperative endeavor agreement that provides for payments in lieu of ad 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 a participating taxing authority executing a cooperative
28 endeavor agreement for a payment in lieu of taxes, the cooperative endeavor
29 agreement shall be approved as follows:

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 (e) The State Bond Commission.

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

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

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

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

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

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

22 * * *

23 §9021. Findings, declarations of necessity, and purpose

24 It is hereby found and declared that:

25 * * *

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

* * *

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

§9022. Definitions

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

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

* * *

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

The original instrument was prepared by Curry J. Lann. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

DIGEST

SB 396 Reengrossed 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, as evidenced by the adoption of a resolution for that purpose, the sheriff as evidence by a letter, and the State Bond Commission.

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)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Adds the State Bond Commission to list of authorities that must approve the CEA prior to execution.