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The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

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## CONFERENCE COMMITTEE REPORT DIGEST

SB 241

2022 Regular Session

Allain

### **Keyword and summary of the bill as proposed by the Conference Committee**

TAX/TAXATION. Provides for alternatives in lieu of payment under protest for certain ad valorem taxes. (8/1/22)

### **Report rejects House amendments which would have:**

1. Removed the requirement that a taxpayer either make a payment under protest of the disputed amount of the tax or post security for the disputed amount of the ad valorem tax while a correctness challenge is pending.
2. Removed the tax commission's right of an appeal to a district court following a determination by the Board of Tax Appeals (BTA) that the tax commission's decision to refuse to approve a claim for a refund and repayment of taxes erroneously paid in connection with public service property was incorrect matters pending before the BTA or eligible for appeal on July 1, 2022.

### **Report amends the bill to:**

1. Authorize companies to present claims on the basis of an error on its report of a public service property within three years of the date of a payment and authorize the La. Tax Commission to correct or change an assessment upon a showing by of a clerical error or a showing by clear and convincing evidence of any other error. An overpayment determined as a result of a change will be refunded or credited against future ad valorem tax liabilities as agreed by the company and the collector.
2. Provide that no payment under protest or post alternative security is required to be posted while a correctness challenge is pending before the commission or during the pendency of an appeal of the commission's determination brought by any party other than the taxpayer.
2. Provide for the timing of Louisiana Tax Commission determinations on claims for ad valorem taxes erroneously paid relative to public service properties.
3. Provide for the timing required to make a payment under protest or file a rule to set bond of the disputed amount when a taxpayer appeals the commission's determination.
4. Provide that the provisions of proposed law will apply to appeals of actions of the La. Tax

Commission regarding public service properties that are pending before the Board of Tax Appeals on the effective date of the Act.

5. Add a signature of the governor effective date.
6. Make technical changes.

### **Digest of the bill as proposed by the Conference Committee**

Present law authorizes the La. Tax Commission to correct or change the assessment of any company with respect to public service properties.

Proposed law authorizes companies to present claims on the basis of an error on its report of a public service property within three years of the date of a payment and authorizes the La. Tax Commission to correct or change an assessment upon a showing by of a clerical error or a showing by clear and convincing evidence of any other error. An overpayment determined as a result of a change will be refunded or credited against future ad valorem tax liabilities as agreed by the company and the collector.

Present law requires the payment under protest of the disputed amount of tax when a taxpayer challenges the correctness of an ad valorem tax assessment or the legality of an ad valorem tax assessment.

Proposed law changes present law by providing that a taxpayer challenging the correctness of an assessment who has timely filed an appeal with the La. Tax Commission shall not be required to make a payment under protest or post security while the correctness challenge is pending before the commission or during an appeal of the commission's determination brought by any party other than the taxpayer.

Proposed law provides that when a taxpayer appeals the determination of the La. Tax Commission that the payment under protest or filing a rule to set bond or other security is timely if the payment is made or the rule is filed within the applicable appeal deadline.

Present law requires that the La. Tax Commission shall examine the merits of each claim against a political subdivision for erroneous taxes paid within 30 days of the receipt of the claim, but does not relative to the examination of claims for erroneous taxes for public service properties.

Proposed law requires that the La. Tax Commission shall examine the merits of each claim against a political subdivision for erroneous taxes paid within 60 days of the receipt of the claim relative to public service properties.

Proposed law provides for an alternative method of providing security in lieu of a payment under protest in the case of a taxpayer filing a legality challenge with a court or the Board of Tax Appeals.

Proposed law authorizes the taxpayer, on or before the date on which the taxes are due, to file a rule

to set bond or other security with the court or the board which shall be set for hearing within 30 days.

Proposed law authorizes the court or the board to order that a portion of the disputed amount be paid under protest and the balance secured by the posting of a bond or other security.

Proposed law authorizes the collector to file a reconventional demand against the taxpayer in the cause of action in which a bond or alternative security is provided and further provides that the collector may procure an appraisal or conduct discovery concerning the value and validity of security offered.

Proposed law requires that the posting of a bond or other security for ad valorem tax challenges shall be consistent with the provisions for providing security in connection with a suspensive appeal under the Code of Civil Procedure.

Proposed law does not apply to amounts of tax that are not in dispute and are not the subject of a correctness or legality challenge.

Proposed law provides that the provisions of proposed law will apply to appeals of actions of the La. Tax Commission regarding public service properties that are pending before the Board of Tax Appeals on the date that proposed law becomes effective.

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

(Amends R.S. 47:1857(B), 2134(B)(1), (D)(3), and (E)(1); adds R.S. 47:1857(C), 1989(G), 2132(A)(3), and 2134(F))