

RÉSUMÉ DIGEST

SB 241

2022 Regular Session

Allain

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

Proposed law would have authorized 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 would have authorized the La. Tax Commission to correct or change an assessment upon a showing 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 would have been 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 would have changed present law by providing that a taxpayer challenging the correctness of an assessment who had timely filed an appeal with the La. Tax Commission would not have been required to make a payment under protest or post security while the correctness challenge was pending before the commission or during an appeal of the commission's determination brought by any party other than the taxpayer.

Proposed law would have provided 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 would have required the La. Tax Commission to 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 would have provided 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 would have authorized the taxpayer, on or before the due date of the tax, to file a rule to set bond or other security with the court or the board which would have been required to be set for hearing within 30 days.

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

Proposed law would have authorized 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 would have provided that the collector could have procured an appraisal or conduct discovery concerning the value and validity of security offered.

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

Proposed law would not have applied to amounts of tax that were not in dispute and not the subject of a correctness or legality challenge.

Proposed law would have provided that the provisions of proposed law would have applied to appeals of actions of the La. Tax Commission regarding public service properties that

were pending before the Board of Tax Appeals on the date that proposed law became effective.

(Proposed to amend R.S. 47:1857(B), 2134(B)(1), (D)(3), and (E)(1); proposed to add R.S. 47:1857(C), 1989(G), 2132(A)(3), and 2134(F))

VETO MESSAGE:

"Please be advised that I have vetoed Senate Bill 241 of the Regular Session of 2022.

As originally drafted, this bill provided for an important change in Louisiana law by allowing a taxpayer to challenge the correctness of a tax assessment before the Louisiana Tax Commission without the requirement for paying the taxes under protest. However, in conference committee, and upon the insistence of the House conferees, the bill was amended to add language meant to benefit one taxpayer. The language added to Senate Bill 241 in conference committee is a clear effort to change the outcome of a matter that is on appeal to the Board of Tax Appeals to benefit a party adversely affected by a ruling of the Tax Commission. It was not made clear to the legislature, in considering this conference report, that this was the intended and resulting effect of this amendment. In addition, this change in law would provide an opportunity to this taxpayer, at great cost to the parish where these taxes were paid, while not providing the same change for all Louisiana taxpayers.

I would have signed, and will support next year, a bill in line with the original language of Senate Bill 241 and the version of the bill that passed the Senate. Should there be another attempt to pass a bill meant to benefit one taxpayer next year, it should be done transparently and with full consideration by both chambers. I maintain significant concerns about the legislature changing the law to benefit one party to a pending matter, and thus I cannot promise my support if the legislature does knowingly pass such a bill next year. However, I certainly cannot sign a bill that accomplishes this without clear and open debate of this matter."