
The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Riley Boudreaux.

DIGEST

Donahue (SB 268)

Present law authorizes the secretary of the Department of Revenue and local tax collectors to employ private counsel to assist in collection of taxes, interest, and penalties or to represent the collector in any proceeding and authorizes an additional charge for attorney fees, in the amount of 10% of the taxes, penalties and interest due to be paid by the "tax debtor."

Proposed law limits the ability to employ private counsel to collection of delinquent accounts after an assessment has become final, and further provides that the attorney may be paid reasonable attorney fees and reasonable expenses out of current collections of the particular tax at issue, but they cannot exceed 10% of the taxes, penalties, and interest recovered by the collector.

Proposed law provides alternative remedies for taxpayers who have received a final notice of assessment for sales and use taxes from any collector or taxing authority and now seek a remedy instead of making a payment under protest.

Present law authorizes a taxpayer contesting local sales taxes, as an alternative to paying the contested taxes, penalty, and interest under protest, to post a commercial bond or other security and file suit within 30 days. If he does so, no collection action can be taken in connection with the tax assessment.

Proposed law provides more alternative remedies. It authorizes the taxpayer to:

1. File with the court a statement showing that the amount of tax in controversy during the calendar year at issue does not exceed \$100,000, exclusive of interest and penalties, as evidenced by the assessment.
2. File with the court a certified copy of a pledge, collateral assignment, lien, mortgage, or other encumbrance of assets in favor of the tax collector and in an amount equal to 125% of the unpaid taxes, interest, and penalties demanded in the assessment.

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

(Amends R.S. 47:337.64 and 1512)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs

to the original bill.

1. Changes the proposed law from an authorization of an award to the "prevailing party" of 10% of tax, interest, and penalties either recovered (in the case of the collector) or recovered or determined not to be due (in the case of the taxpayer) to a limit on the ability of the collectors to employ private counsel to collection of delinquent accounts after an assessment has become final and a limit on the payment to private counsel of "reasonable attorney fees and reasonable expenses" up to 10% of the amount recovered by the collectors.
2. Requires, as an alternative to paying under protest local sales taxes, filing with the court a certified copy of an instrument in favor of the tax collector and in an amount equal to 125% of the amount at issue, rather than only the amount at issue.