

2018 Regular Session

HOUSE BILL NO. 512

BY REPRESENTATIVE IVEY

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

1 AN ACT

2 To amend and reenact R.S. 33:9021(8) and (10), and 9022(1), and to enact R.S. 33:2758.1,
3 relative to ad valorem tax exemptions; to provide with respect to payments in lieu
4 of taxes pursuant to certain cooperative endeavor agreements; to provide relative to
5 procedures for the validity of certain cooperative endeavor agreements; to provide
6 for limitations and requirements; to provide for definitions; to provide for
7 effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 33:9021(8) and (10), and 9022(1) are hereby amended and reenacted,
10 and R.S. 33:2758.1 is hereby enacted to read as follows:

11 §2758.1. Cooperative endeavor agreements authorizing payments in lieu of ad
12 valorem taxes

13 A. One or more local governmental subdivisions or any other entities having
14 taxing authority may enter into a joint or separate cooperative endeavor agreement
15 that provides for payments in lieu of ad valorem taxes imposed by a taxing authority
16 that is a party to such cooperative endeavor agreement, with any of the following
17 persons as described in Paragraphs (1) and (2) of this Subsection:

1 (1) Owners of certain property eligible for the ad valorem property tax
2 exemption provided for manufacturing establishments as described in Article VII,
3 Section 21(F) of the Constitution of Louisiana.

4 (2) Owners of certain other property not eligible for the ad valorem property
5 tax exemption provided by Article VII, Section 21(F) of the Louisiana Constitution
6 upon approval of the cooperative endeavor agreement by the Joint Legislative
7 Committee on the Budget in accordance with the provisions of this Section.

8 (3)(a) For a cooperative endeavor agreement to be eligible for a payment in
9 lieu of taxes arrangement which qualifies for the ad valorem tax exemption, the
10 agreement shall be prepared by the secretary of the Department of Economic
11 Development. The secretary may also assist the local government subdivision or
12 subdivisions or other taxing authorities, hereinafter referred to collectively as "taxing
13 authority" as deemed necessary by the taxing authority for purposes of development
14 of the transaction.

15 (b) Prior to any public hearing by any taxing authority and approval of a
16 cooperative endeavor agreement, the assessor for the parish where the property is
17 located shall be consulted in connection with the negotiation of the terms of the
18 cooperative endeavor agreement.

19 (c) When the terms of a cooperative endeavor agreement have been finalized
20 and the agreement is ready for consideration for adoption, it shall be presented by the
21 taxing authority to the Board of Commerce and Industry, hereinafter referred to as
22 "board," for a recommendation to either adopt or defer. The board shall take action
23 on a cooperative endeavor agreement within thirty days of receipt. The board's
24 recommendation shall be transmitted by the chairman of the board to the head of the
25 governing authority of the taxing authority.

26 (4)(a) Cooperative endeavor agreements may be entered into by a taxing
27 authority only after a public hearing concerning the adoption of a resolution by the
28 taxing authority for approval of the agreement, for themselves and all districts and
29 subunits created by them respectively, or by resolution of any stand-alone taxing

1 authorities or by letter of approval of the sheriff approving the form and terms
2 thereof.

3 (b) Notice of the public hearing shall be published in the official journal of
4 the applicable taxing authority at least once, no later than fourteen days prior to the
5 hearing, or if there is no official journal, in a newspaper having general circulation
6 therein. The notice shall inform the public where a copy of the proposed cooperative
7 endeavor agreement and the board's recommendation may be obtained and the time
8 and place of the hearing.

9 B. A cooperative endeavor agreement shall only apply to those taxing
10 authorities who are parties thereto, and any non-participating taxing authority shall
11 not be bound thereby and their ad valorem taxes shall continue to be billed and
12 collected without regard to the provisions of this Section.

13 C. Any property subject to a cooperative endeavor agreement that requires
14 payments in lieu of ad valorem taxes shall be exempt from ad valorem taxation
15 during the term or terms of the cooperative endeavor agreement, and to the extent
16 provided for in such cooperative endeavor agreement, as authorized under Article
17 VII, Section 21(O). The term of the cooperative endeavor agreement shall not
18 exceed ten years. All property exempted shall be listed on the assessment rolls and
19 such information shall be submitted to the Louisiana Tax Commission.

20 D. To be eligible for a cooperative endeavor agreement that requires
21 payments in lieu of ad valorem taxes, the property shall not have been previously
22 exempt from ad valorem taxation pursuant to Article VII, Section 21(F) of the
23 Constitution of Louisiana. Notwithstanding the foregoing, an ad valorem taxing
24 authority may negotiate and enter into a cooperative endeavor agreement with a
25 property owner for a payment in lieu of ad valorem taxes during the first two years
26 of a contract of exemption allowed by Article VII, Section 21(F) of the Constitution
27 of Louisiana as set forth in this Section. Any such cooperative endeavor agreement
28 negotiated during the first two years of a contract of exemption shall require an

1 offset for the period of time during which the property was fully exempted from ad
2 valorem taxation.

3 E.(1) Payment obligations, transferability, collection procedures which may
4 include the designation of a collector, and any other matters relating to the payment
5 and collection of payments made in lieu of ad valorem taxes shall be set forth in a
6 cooperative endeavor agreement authorized under this Section.

7 (2) The status of satisfaction of payment and other requirements of each
8 cooperative endeavor agreement shall be reported in the comprehensive annual
9 financial report or other equivalent report of a taxing authority party to a cooperative
10 endeavor agreement.

11 F. In order for the Joint Legislative Committee on the Budget to consider
12 approval of a cooperative endeavor agreement for payments in lieu of ad valorem
13 taxes for a property owner not eligible for the property tax exemption provided for
14 manufacturing establishments by Article VII, Section 21(F) of the Constitution of
15 Louisiana, the property owner shall demonstrate either of the following:

16 (1) The activities of the property owner in the state of Louisiana will
17 generate an economic benefit to the citizens residing within the jurisdiction of the
18 taxing authority that is party to the agreement, and which activities will exceed
19 twenty times the anticipated benefit to the property owner from the exemption
20 provided by this Section. Such benefit to the citizens shall be determined by the
21 application of nationally recognized multipliers as appropriate and set forth in the
22 Regional Input-Output Modeling System (RIMS II), or its successor publications, for
23 the business operations of the applicant as published by Regional Economic Analysis
24 Division BE-61, Bureau of Economic Analysis, U.S. Department of Commerce,
25 Washington, D.C. 20230.

26 (2) The activities of the property owner shall create at least two hundred and
27 fifty new jobs in the parish where the property is located. These jobs shall be in
28 excess of the number of jobs that existed in Louisiana because of that property owner

1 and all affiliated companies prior to the effective date of the cooperative endeavor
2 agreement.

3 G. In order to provide a uniform, expeditious, and equitable procedure to
4 determine the validity of a cooperative endeavor agreement authorized under this
5 Section, as well as any transaction contemplated thereby, a suit to determine the
6 validity of such an agreement may be filed as provided in R.S. 13:5121, et seq., in
7 the district court having jurisdiction for any party to the agreement in the same
8 manner and as though the agreement constitutes an issuance of bonds by the taxing
9 authority. In the case of property owners not eligible for the property tax exemption
10 provided by Article VII, Section 21(F) of the Louisiana Constitution, a proceeding
11 made pursuant to the provisions of R.S. 13:5121, et seq. may only be filed following
12 approval of the cooperative endeavor agreement by the Joint Legislative Committee
13 on the Budget as set forth in this Section.

14 * * *

15 §9021. Findings, declarations of necessity, and purpose

16 It is hereby found and declared that:

17 * * *

18 (8) Public-private partnerships which take advantage of the special expertise
19 and experience of representatives of the private sector and other cooperative
20 endeavor agreements can be among the most effective programs to encourage and
21 maintain economic development.

22 * * *

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

29 * * *

Proposed law provides that for a CEA to be eligible for a payment in lieu of taxes arrangement which qualifies for the property tax exemption, the agreement shall be prepared by the secretary of the Dept. of Economic Development. The secretary may also assist taxing authority as deemed necessary by the taxing authority for purposes of development of the transaction. Further, the assessor shall be consulted during negotiation of the terms of the agreement.

Proposed law provides with respect to consideration of a proposed CEA by the Board of Commerce and Industry so that the board may issue a recommendation with regard to adoption or deferral of the agreement.

Proposed law requires that a public hearing be held prior to the adoption of a resolution for the approval of a CEA 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 and no later than 14 days prior to the hearing. The public notice shall contain a copy of the draft CEA and the Board of Commerce and Industry's recommendation.

Proposed law provides that any property subject to an agreement shall be exempt from property taxes during the term of the agreement to the extent as is provided for in the agreement. The term of the agreement shall not exceed 10 years.

Proposed law limits eligibility for the exemption to either the property of a manufacturing establishment that qualifies for the industrial tax exemption, or a property that is subject to a CEA that has been approved by the Joint Legislative Committee on the Budget (JLCB).

Proposed constitutional amendment 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 two years of the industrial tax exemption contract.

Proposed law requires that in order for a CEA to be considered by the JLCB the property owner shall demonstrate that the economic benefit to the jurisdiction of the taxing authority under the agreement will exceed 20 times the anticipated benefit of the agreement to the property owner, and that the activities of the property owner shall create at least 250 new jobs in the parish where the property is located.

Proposed law adds a requirement that exempt properties be listed on the assessment rolls and information concerning those properties is required to be submitted to the La. Tax Commission.

Proposed law requires that the status of satisfaction of payment and other requirements of each CEA be reported in the comprehensive annual financial report or other equivalent report of a taxing authority party to a CEA.

Proposed law provides that administrative provisions concerning the collection of monies due under an agreement shall be the same as those for property 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 provides a definition for "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".

Effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. ____ of this 2018 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 33:9021(8) and (10), and 9022(1); Adds R.S. 33:2758.1)