

2015 Regular Session

HOUSE BILL NO. 338

BY REPRESENTATIVE DANAHAAY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX APPEALS/BOARD: Provides with respect to the enforcement and adjudication of state and local taxes and the Board of Tax Appeals

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(7)(b), 337.13.1(A)(2), (B)(1), and (C), 337.27,

3 337.28.1(B), 337.33(A)(5), 337.45(B), 337.63(A)(3) and (B), 337.64(B),

4 337.81(A)(2) and (B), 337.86(E)(2)(a), 1401, 1403(B)(5), 1418(4), 1434, 1438,

5 1522, 1561(B)(3), 1576(B), 1603(A)(3), and 1625, and Sections 5 and 7 of Act No.

6 640 of the 2014 Regular Session of the Legislature and to enact R.S.

7 47:337.45(A)(4), 337.51(B)(4), 337.63(E), 337.79(C), 337.81(A)(3), 1403(A)(4) and

8 (B)(6)(c), 1407(5), 1408(D) and (E), 1413(D) and (E), 1418(6) and (7), 1439,

9 1561(A)(4) and (B)(4), 1580(B)(5), 1621(D)(4), and 1623(F), relative to the

10 enforcement and adjudication of state and local taxes and the Board of Tax Appeals;

11 to provide with respect to disputes concerning taxes; to provide for administration

12 of the board; to provide with respect to certain revenues dedicated to the board; to

13 establish an escrow account; to provide for the deposit, investment, and use of

14 monies in the account; to establish a fund within the escrow account and provide for

15 its sources of revenue and use; to provide for certain procedures and requirements

16 relative to adjudication and appeals of certain cases involving state and local taxes;

17 to provide with respect to compensation and benefits of officers of the board; to

18 authorize certain agreements regarding the compensation and expenses of ad hoc

19 judges; to provide for effectiveness; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 47:302(K)(7)(b), 337.13.1(A)(2), (B)(1), and (C), 337.27,  
3 337.28.1(B), 337.33(A)(5), 337.45(B), 337.63(A)(3) and (B), 337.64(B), 337.81(A)(2) and  
4 (B), 337.86(E)(2)(a), 1401, 1403(B)(5), 1418(4), 1434, 1438, 1522, 1561(B)(3), 1576(B),  
5 1603(A)(3), and 1625 are hereby amended and reenacted and R.S. 47:337.45(A)(4),  
6 337.51(B)(4), 337.63(E), 337.79(C), 337.81(A)(3), 1403(A)(4) and (B)(6)(c), 1407(5),  
7 1408(D) and (E), 1413(D) and (E), 1418(6) and (7), 1439, 1561(A)(4) and (B)(4),  
8 1580(B)(5), 1621(D)(4), and 1623(F) are hereby enacted to read as follows:

9 §302. Imposition of tax

10 \* \* \*

11 K. An additional tax shall be levied as follows:

12 \* \* \*

13 (7)

14 \* \* \*

15 (b) The amount specified in Subparagraph (a) of this Paragraph as  
16 transferred to the Department of State Civil Service, Board of Tax Appeals, shall be  
17 increased by ~~five~~ fifty-five thousand dollars on July 1, 2015, and by five thousand  
18 dollars on the first day of each of the ~~four~~ two subsequent fiscal years when the  
19 amount distributed pursuant to this Subsection in the fiscal year immediately  
20 preceding that date actually exceeds the amount distributed in Fiscal Year 2013-  
21 2014. The amounts specified in Subparagraphs (a) and (b) of this Paragraph shall  
22 be transferred by the secretary within the first thirty days of each fiscal year and the  
23 Department of State Civil Service, Board of Tax Appeals, may retain all funds which  
24 are transferred as directed in Subparagraphs (a) and (b) of this Paragraph.

25 \* \* \*

26 §337.13.1. Power to employ counsel; attorney fees

27 A.

28 \* \* \*

1           (2) If any taxes, penalties, or interest due and final under this Subtitle are  
 2 referred to an attorney at law for a collection action, an additional charge for attorney  
 3 fees, in the amount of ten percent of the taxes, penalties, and interest due, except  
 4 with respect to amounts timely paid under protest with a return that is not delinquent,  
 5 or paid under protest to a vendor in accordance with law, shall be paid by the  
 6 taxpayer to the local collector; provided, however, that the amount paid for attorney  
 7 fees shall be subject to the discretion of the court or Board of Tax Appeals as to  
 8 reasonableness.

9   \*       \*       \*

10           B.(1) Except as otherwise provided for in Paragraph (3) of Subsection A of  
 11 this Section, the prevailing party in a dispute, contest, or other controversy involving  
 12 the determination of sales and use tax due shall be entitled to reimbursement of  
 13 attorney fees and costs, not to exceed ten percent of the taxes, penalties, and interest  
 14 at issue, unless the position of the non-prevailing party is substantially justified. The  
 15 prevailing party is defined as the party which has substantially prevailed with respect  
 16 to the amount in controversy or substantially prevailed with respect to the most  
 17 significant issue or set of issues presented. A position is substantially justified if it  
 18 has a reasonable basis in law and fact. The reimbursement amount for attorney fees  
 19 and costs shall be subject to the discretion of the court or Board of Tax Appeals as  
 20 to reasonableness.

21   \*       \*       \*

22           C. A local collector may waive the attorney fee award as provided for in this  
 23 Section. A waiver of attorney fees by a local collector shall be considered timely if  
 24 the notice of the waiver is mailed to a taxpayer by certified mail, return receipt  
 25 requested, within thirty days of the service of process, or if it is waived in the  
 26 collector's initial answer to a petition filed in the Board of Tax Appeals. If a local  
 27 collector timely waives its attorney fee award, a taxpayer may not recover attorney  
 28 fees as provided for in Subsection B of this Section.

29   \*       \*       \*

1 §337.27. Venue

2 An action to enforce the collection of a sales or use tax, including any  
3 applicable interest, penalties, or other charges, levied by a taxing authority may be  
4 brought in the parish in which the taxing authority is situated, or in the Board of Tax  
5 Appeals as provided by law.

6 \* \* \*

7 §337.28.1. Arbitrary assessments prohibited

8 \* \* \*

9 B. If the assessment by the collector is determined by a court of competent  
10 jurisdiction or the Board of Tax Appeals to be an arbitrary assessment, the  
11 assessment shall neither interrupt nor suspend prescription, and the dealer shall be  
12 reimbursed by the collector for reasonable costs of litigation. The amount of costs  
13 recoverable under this Section shall not exceed ten percent of the taxes, interest, and  
14 penalty that were arbitrarily assessed, which amount shall be subject to the discretion  
15 of the court, or Board of Tax Appeals, as to reasonableness.

16 \* \* \*

17 §337.33. Failure to pay tax; rule to cease business

18 A.

19 \* \* \*

20 (5) The collection procedure provided for in this Subsection shall be in  
21 addition to any other collection procedure provided by law. When issuing an order  
22 pursuant to this Subsection, the Board of Tax Appeals or any court of competent  
23 jurisdiction, upon proper showing, may also render a money judgment against the  
24 taxpayer and in favor of the collector in the amount of any final and non-appealable  
25 assessment, together with all penalties, interest, attorney fees and costs due.

26 \* \* \*

27 §337.45. Alternative remedies for the collection of taxes

28 A.

29 \* \* \*

1           (4) Demand in reconvention, or third-party demand, in any court of  
2           competent jurisdiction or before the Board of Tax Appeals concerning collection of  
3           local taxes due, including any related interest, penalties, costs, and attorney fees due  
4           under applicable law.

5           B.(1) The collector may choose which of these procedures he will pursue in  
6           each case, and the counter-remedies and delays to which the taxpayer will be entitled  
7           will be only those which are not inconsistent with the proceeding initiated by the  
8           collector, provided that in every case the taxpayer shall be entitled to proceed under  
9           R.S. 47:337.63, except ~~(a) after~~ in the following circumstances:

10                 (a) After he has filed a petition with the Board of Tax Appeals for a  
11           redetermination of the assessment, ~~(b) when.~~

12                 (b) When an assessment for the tax in question has become final, ~~or (c) when~~  
13           a.

14                 (c) After the deadline to file an answer or defenses, after he has appeared in,  
15           or he has filed any responsive pleading or defenses in any proceeding or suit  
16           involving the same tax obligation is pending against him, and provided further, that  
17           the.

18                 (d) When an incidental demand for the same tax obligation is pending  
19           against him in a suit by the collector concerning collection of the same tax  
20           obligation.

21           (2) The fact that the collector has initiated proceedings under the assessment  
22           and distraint procedure will not preclude him from thereafter proceeding by  
23           summary or ordinary court proceedings for the enforcement of the same tax  
24           obligation.

25   \*         \*         \*

26           §337.51. Notice of assessment and right to appeal

27   \*         \*         \*

1           B. If any dealer disputes any findings or assessment of the collector, he may,  
2           within thirty days of the receipt of notice of the assessment or finding, do any of the  
3           following:

4   \*       \*       \*

5           (4) A collector may send to a dealer by regular mail a letter addressed in the  
6           same manner as provided in Subsection A of this Section to advise the dealer that the  
7           failure to collect certified or registered mail sent by the collector may result in the  
8           loss of appeal rights concerning the uncollected notice of assessment. If the collector  
9           mails this letter on the same date as the collector mails a notice of assessment then  
10           any notice of assessment returned to the collector because a dealer failed to collect  
11           it following attempted delivery by the United States Postal Service shall be deemed  
12           to have been received by the dealer for the purposes of this Subsection on the date  
13           that the United States Postal Service record indicates that the United States Postal  
14           Service first attempted to deliver the notice of assessment to the dealer. A certificate  
15           of mailing or other proof of mailing from the United States Postal Service shall  
16           establish that this letter was transmitted by regular mail.

17   \*       \*       \*

18           §337.63. Remittance of tax under protest; suits to recover

19           A.

20   \*       \*       \*

21           (3) ~~If~~ To the extent the taxpayer prevails, the collector shall refund the  
22           amount to the claimant, with interest at the rate established pursuant to R.S.  
23           47:337.80, except as provided in Subsection E of this Section.

24           B.(1) This Section shall afford a legal remedy and right of action in the  
25           Board of Tax Appeals as provided in this Section, or in any state court having  
26           jurisdiction of the parties and subject matter, for a full and complete adjudication of  
27           any and all questions arising in the enforcement of the sales and use tax of a taxing  
28           authority as to the legality of any tax accrued or accruing or the method of  
29           enforcement thereof. In such action, service of process upon the collector shall be

1 sufficient service, and he shall be the sole necessary and proper party defendant in  
2 any such suit.

3 (2) If the collector files suit against a taxpayer in district court pursuant to  
4 R.S. 47:337.45(A)(3), and the taxpayer timely pays under protest, the district court  
5 shall retain exclusive jurisdiction to adjudicate the matter to final judgment.

6 \* \* \*

7 E. When the collector has pursued collection of taxes pursuant to any remedy  
8 provided for in R.S. 47:337.45(A)(2) or (3) and the taxpayer has made a timely  
9 payment under protest concerning the same tax obligation, and if the collector has  
10 deposited the monies into an interest bearing account in accordance with this  
11 Section, then the interest to be paid on the tax obligation to the party or parties  
12 adjudged to be entitled to the interest shall be that interest actually earned and  
13 received by the collector on the payment.

14 §337.64. Alternative remedy for dealers

15 \* \* \*

16 B. (1) If the taxpayer files suit in any state court of competent jurisdiction,  
17 or a petition before the Board of Tax Appeals, contesting the assessment within the  
18 time provided by law and satisfies the alternative remedies provided for in  
19 Subsection C of this Section, no collection action shall be taken in connection with  
20 the assessment of taxes, interest, and penalties, which are the subject of the  
21 taxpayer's suit; however, the collector shall be permitted to file a reconventional  
22 demand against the taxpayer in such suit.

23 (2) If a valid petition contesting an assessment is timely filed in the Board  
24 of Tax Appeals pursuant to Paragraph (1) of this Subsection then the Board of Tax  
25 Appeals shall exercise the authority provided for in Subsection C of this Section in  
26 the same manner as a district court.

27 \* \* \*

28 §337.79. Prescription of refunds or credits

29 \* \* \*

1 C.(1) In any case where the collector pursues any remedy for collection of  
 2 tax pursuant to R.S. 47:337.45, including the issuance of an assessment, the period  
 3 of prescription for a refund or credit for the same tax periods and types of tax shall  
 4 be suspended. However, the suspension of prescription provided for in this  
 5 Subsection applies only in the following circumstances:

6 (a) When an assessment has been issued and the taxpayer has submitted a  
 7 refund claim that is received by the collector prior to the assessment becoming final.

8 (b) When a summary proceeding has been filed and the taxpayer has timely  
 9 pleaded such claim for refund as an offset or credit in the summary proceeding.

10 (c) When an ordinary suit has been filed and the taxpayer has filed a timely  
 11 reconventional demand for the refund or credit in the suit.

12 (2) If the refund claim would have been prescribed but for this Subsection,  
 13 the amount of the claim found to be due shall be credited or offset against the  
 14 underpaid tax found to be due.

15 (3) Prescription shall not be suspended by the provisions of Paragraph (1)  
 16 of this Subsection if any of the following occur:

17 (a) An assessment has become final and nonappealable.

18 (b) A judgment of the Board of Tax Appeals concerning the collection  
 19 remedy referenced in Paragraph (1) of this Subsection has become final.

20 (c) A final judgment has been rendered by a district court in a related  
 21 summary or ordinary proceeding.

22 \* \* \*

23 §337.81. Appeals from the collector's disallowance of refund claim

24 A.

25 \* \* \*

26 (2) The taxpayer may appeal a denial of a claim for refund to the Board of  
 27 Tax Appeals, as provided by law. No appeal may be filed before the expiration of  
 28 one year from the date of filing such claim unless the collector renders a decision  
 29 thereon within that time, nor after the expiration of ninety days from the date of



1 mailing by certified or registered mail by the collector to the taxpayer of a notice of  
2 the disallowance of the part of the claim to which such appeal relates, nor after the  
3 expiration of one hundred eighty days from the end of the expiration of the one year  
4 in which the collector failed to act.

5 (3) A taxpayer's proper appeal to the Board of Tax Appeals filed within  
6 ninety days from the date on any notice of disallowance issued shall also establish  
7 that the appeal was filed within ninety days from the date of the certified or  
8 registered mailing of the notice.

9 B. ~~Any~~ (1) A notice of disallowance, if issued, shall inform the taxpayer that  
10 he has ninety days from the date of the certified or registered mailing of that notice  
11 to appeal to the Board of Tax Appeals, and that any consideration, reconsideration,  
12 or action by the collector with respect to such claim following the mailing of a notice  
13 by certified or registered mail of disallowance shall not operate to extend the period  
14 within which an appeal may be taken.

15 (2) The failure to transmit this notice does not extend the separate and  
16 distinct prescriptive period that runs following one year of inaction by the collector.

17 \* \* \*

18 §337.86. Credit for taxes paid

19 \* \* \*

20 E.

21 \* \* \*

22 (2)(a) The collector shall not impose penalties or interest on taxes  
23 erroneously paid or remitted to another taxing authority unless the erroneous  
24 payment or remittance was the result of gross negligence or due to intentional  
25 conduct of bad faith ~~or gross negligence~~ on the part of the ~~persons collecting and~~  
26 ~~remitting~~ dealer that collected and remitted the taxes or on the part of the taxpayer  
27 that paid the taxes. In instances where a legitimate disagreement exists as to which  
28 taxing authority is owed, the involved taxing authorities shall resolve the dispute  
29 among themselves through any legal means provided by law, including the filing of

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 a rule or petition against the other taxing authority in the manner provided for in R.S.  
2 47:337.101.

3 \* \* \*

4 §1401. Creation of Board of Tax Appeals

5 In order to provide a board that will act as an appeal board to hear and decide,  
6 at a minimum of expense to the taxpayer, questions of law and fact arising from  
7 disputes or controversies between a taxpayer and the collector of revenue of the State  
8 of Louisiana in the enforcement of any tax, excise, license, permit or any other tax  
9 law administered by the collector, and to exercise jurisdiction as provided for in the  
10 Uniform Local Sales Tax Code, the Board of Tax Appeals, hereinafter referred to as  
11 the "board", is created as an independent agency in the Department of State Civil  
12 Service, and for the purposes of this Chapter. The Local Tax Division is created as  
13 an independent agency and authority within the board for the purposes of exercising  
14 jurisdiction over disputes involving local collectors.

15 \* \* \*

16 §1403. Designation of officers; domicile; quorum; seal

17 A.

18 \* \* \*

19 (4) The local tax judge provided for in Paragraph (3) of this Subsection is  
20 recognized as having been created as a distinct position in the unclassified service  
21 for the purposes of Article X of the Constitution of Louisiana, and shall serve as  
22 agency head for the Local Tax Division.

23 B.

24 \* \* \*

25 (5) Upon the motion of the local collector, a hearing on the merits in a matter  
26 involving only local taxing authorities from a single parish shall be held in that  
27 parish. The respective district or other local court shall make available any facilities  
28 necessary for the hearing, and any relevant expenses may be taxed as costs, including  
29 any costs for a hearing judge in the same amount as specified in R.S. 47:1417(C)(2).

1 (6)

2 \* \* \*

3 (c) For any case assigned to be heard in the Local Tax Division, all  
4 references to the Board of Tax Appeals in this Chapter or in Chapter 2-D of this  
5 Subtitle shall mean the board's Local Tax Division, with the board's authority  
6 exercised by its judge pursuant to R.S. 47:1403(A)(3).

7 \* \* \*

8 §1407. Jurisdiction of the board

9 The jurisdiction of the board shall extend to the following:

10 \* \* \*

11 (5) Incidental demands authorized by law in any action pending before the  
12 board in the same manner as in a district court pursuant to Code of Civil Procedure  
13 Article 1031.

14 §1408. Power to administer oaths and issue rules, orders, or subpoenas

15 \* \* \*

16 D.(1) The provisions of R.S. 47:337.33(A), 337.43, and 1547 shall apply to  
17 the Board of Tax Appeals and its Local Tax Division in the same manner as for a  
18 district court. In addition to the remedies otherwise provided for in this Section, any  
19 interested party may file a motion or rule in any court of competent jurisdiction  
20 alleging a violation of any order issued by the board or its local tax judge pursuant  
21 to R.S. 47:337.33, 337.43, and 1547, and the district court shall consider any  
22 violation shown to be a contempt of the court and shall immediately punish the  
23 violator in accordance with R.S. 13:4611(1) and all other applicable laws for  
24 contempt of court.

25 (2)(a) In addition to all other remedies provided for in this Section, the  
26 failure to obey any order or subpoena issued under the authority of this Chapter shall  
27 constitute contempt of court, and may be punished by the board or its local tax judge  
28 in accordance with the provisions of R.S. 13:4611(1) and all other applicable laws  
29 for contempt of court. Any action finding anyone in contempt pursuant to this

1 Paragraph shall be subject to an appeal by trial *de novo* in the Nineteenth Judicial  
2 District Court.

3 (b) The board, through any member or its counsel, may appear in any  
4 proceeding to oppose an appeal pursuant to this Paragraph and may otherwise appear  
5 in defense of its jurisdiction.

6 E. The provisions of this Section may be enforced by any duly  
7 commissioned person, shall be enforced by the sheriff wherever such person may be  
8 found, and shall be enforced by the Department of Public Safety and Corrections,  
9 office of state police, when a direct contempt occurs in a state building.

10 \* \* \*

11 §1413. Rules and regulations

12 \* \* \*

13 D. By rule promulgated pursuant to this Section, the board may require that  
14 in any notice regarding a right to an appeal to the board, the collector shall include  
15 any certified or registered mail tracking number for the notice as well as the board's  
16 contact information, in a form specified by the board. The failure to include this  
17 information shall not extend the time within which any party may file an appeal with  
18 the board.

19 E. Notwithstanding any other provision of law to the contrary, the board may  
20 issue orders in the same manner as a district court in the exercise of its jurisdiction  
21 or to effectuate its jurisdiction under this Chapter. Any standing orders generally  
22 applicable to all cases, including those related to the timeliness and methods of  
23 filing, shall be published on the board's website.

24 \* \* \*

25 §1418. Definitions

26 For purposes of this Chapter, except when the context requires otherwise, the  
27 words and expressions defined in this Section shall have the following meanings:

28 \* \* \*

1           (4) "Petition" means a separate and distinct pleading filed against the  
2 relevant state collector or local collector with the board. A petition filed against a  
3 state collector shall not interrupt or suspend the time period within which a taxpayer  
4 must file a petition against any local collector, and a petition filed against a local  
5 collector shall not suspend or interrupt the time period within which a taxpayer must  
6 file a petition against a state collector or a different local collector.

7   \*       \*       \*

8           (6) "Escrow Account" means the account with a bank or financial institution  
9 selected as fiscal agent by the Board of Tax Appeals with the approval of the Cash  
10 Management Review Board, pursuant to R.S. 47:1439.

11           (7) "Registry of the Board" means the record retained by the secretary-clerk  
12 for the Escrow Account in the same manner as specified in R.S. 13:475(A).

13   \*       \*       \*

14 §1434. Judicial review of decision of the board

15           A.(+) Within thirty days of the signing of a decision or judgment of the  
16 board, the collector or the taxpayer may file a ~~petition~~ motion with the ~~appellate~~  
17 ~~court~~ board for review of the decision or judgment. ~~The party intending to file the~~  
18 ~~petition shall, prior to its filing, notify the board of this intention either at open~~  
19 ~~hearing or by motion~~ by the appropriate appellate court.

20           B.(1) In any case where the board has found any tax to be due, except in any  
21 payment under protest petition, the taxpayer shall post a bond when giving the notice  
22 of intention to file a petition when filing a motion for review, with surety in a form  
23 approved by the board for the payment of the tax as finally determined, together with  
24 any interest, additional amounts or additions to the tax provided for by law, including  
25 applicable penalties and attorney fees. The bond shall be payable to the collector in  
26 an amount not to exceed one and one-half times the tax, interest, penalties, and  
27 attorney fees, if any, found to be due.

28           (2) In lieu of posting the bond required by Paragraph (1) of this Subsection,  
29 a taxpayer may fulfill that requirement by paying into the Escrow Account for the

1 Registry of the Board an amount not to exceed one and one-half times the tax,  
2 interest, penalties, and attorney fees, if any, found to be due as security pursuant to  
3 Paragraph (1) of this Subsection, together with any fees and costs due to the board.  
4 The payment of security pursuant to this Paragraph shall not suspend the running of  
5 interest otherwise provided for in Subtitle II of Title 47 of the Louisiana Revised  
6 Statutes of 1950, as amended, or in the applicable local ordinances.

7 (3)(a) For any case in the Local Tax Division, an irrevocable letter of credit  
8 issued by a responsible financial institution shall not be accepted as security in lieu  
9 of a bond or a deposit into the Escrow Account of the Registry of the Board unless  
10 it is in the amount of the security otherwise required by Paragraph (1) of this  
11 Subsection and permission is granted by the local tax judge prior to the expiration  
12 of the period for filing a motion for review pursuant to this Section.

13 (b) Any such request for approval pursuant to this Paragraph shall be made  
14 either by joint motion or by contradictory motion, and any contradictory motion shall  
15 be set for an expedited hearing. If any such contradictory motion is filed within ten  
16 days of the signing of judgment, it shall be set for hearing so that a decision will be  
17 rendered at least seven days prior to the expiration of the period for filing a motion  
18 for review pursuant to this Section. During any absence, the local tax judge may  
19 delegate this review to any member of the board, and the chairman may act when the  
20 local tax judge is not available.

21 ~~The~~ (4) If required, the posting of such the security, bond, or payment into  
22 escrow, shall be a condition precedent to the filing of any ~~petition~~ motion for review  
23 in any appellate court with the board.

24 (2)(5) ~~Except as to the amount, and to the extent not otherwise inconsistent~~  
25 ~~with the provisions of this Section~~ Subsection, the nature of the bond or security and  
26 the procedures for posting bond or providing other security shall be consistent with  
27 the provisions for providing security in connection with a suspensive appeal under  
28 the Code of Civil Procedure.

1           ~~(3) The other deadlines and rules governing the briefing and answering of~~  
2           ~~an appeal filed pursuant to this Section shall be as provided for in civil matters under~~  
3           ~~the Code of Civil Procedure and all applicable court rules.~~

4           ~~B. When a petition for review is lodged with an appellate court, the court or~~  
5           ~~its clerk shall mail a copy of the petition to both the secretary-clerk of the board and~~  
6           ~~the opposing party or his counsel.~~

7           ~~C.(1) Within ten days from the lodging of the petition, the appellate court~~  
8           ~~shall command filing of the motion for review with the board, the board shall act~~  
9           ~~upon the motion for review and, if granted, order a return date for the record to be~~  
10           ~~submitted to the appellate court.~~

11           ~~(2) If the movant owes unpaid or taxed fees or costs to the board, the return~~  
12           ~~date shall be set as thirty days from the payment of these costs. If such costs are not~~  
13           ~~owed, the return date shall be thirty days from the filing of the motion for review.~~

14           ~~(3) On or before the return date, the secretary-clerk of the board to shall send~~  
15           ~~the appellate court, within thirty days from the date thereof, the original transcript~~  
16           ~~of the record, together with all exhibits and evidence thereto attached; which record~~  
17           ~~shall be the basis for any action on review and the decision of the appellate court~~  
18           ~~shall be rendered upon that record as made up before the board. The record, and any~~  
19           ~~designation thereof, shall be prepared in accordance with applicable court rules.~~

20           ~~(4) The other deadlines and rules governing the briefing and answering of~~  
21           ~~an appeal filed pursuant to this Section shall be as provided for in civil matters under~~  
22           ~~the Code of Civil Procedure and all applicable court rules.~~

23           ~~D. The filing of a motion for a new trial, a motion for reconsideration, or the~~  
24           ~~denial of any such motion does not extend the period within which a party must file~~  
25           ~~a motion for review for a judgment pursuant to this Section. However, the board~~  
26           ~~shall retain jurisdiction to make corrections to or revise a judgment until the~~  
27           ~~appellate record is lodged with the appellate court. If any amended or revised~~  
28           ~~judgment, or judgment following a new trial, is rendered pursuant to the provisions~~  
29           ~~of Chapter 4 of Title VI of Book II of the Louisiana Code of Civil Procedure, the~~

1 delay to file an appeal concerning the amended, revised, or new judgment shall run  
2 from the date of its signing.

3 \* \* \*

4 §1438. Date judgment becomes final

5 For the purposes of this Title, the date on which a decision or judgment of the  
6 board becomes final shall be determined as provided in this Section. The decision  
7 or judgment of the board shall become final in either of the following circumstances:

8 (1) Upon the expiration of the time allowed for filing a ~~petition~~ motion for  
9 review, if no such ~~petition~~ motion has been duly filed within such time.

10 (2) If a ~~petition~~ motion for review of a judgment of the board by the  
11 applicable appellate court is timely filed with the ~~applicable appellate court~~ board,  
12 the judgment of the board or subsequent judgment of the appellate court shall  
13 become final in the same manner, and at the same time, as provided for in civil  
14 matters under the Code of Civil Procedure.

15 §1439. Escrow Account

16 A. The Board of Tax Appeals, with approval of the Cash Management  
17 Review Board, shall select a bank or financial institution to serve as fiscal agent of  
18 its Escrow Account, hereinafter referred to as "account". This fiscal agent shall  
19 distribute funds from the account only on the seventh business day following receipt  
20 of a certified copy of an order signed by the chairman of the Board of Tax Appeals,  
21 or its local tax judge, or a duly appointed ad hoc judge, as applicable, and attested  
22 to by its secretary-clerk who shall affix the board's seal, or upon receipt of a certified  
23 final non-appealable order of the relevant appellate or higher court. No such order  
24 shall be issued until there is a final and non-appealable judgment in the underlying  
25 case. No such order shall be issued except upon a joint motion of all parties, or  
26 following a contradictory hearing after service on all parties. The order shall specify  
27 the amount payable to the collector, or taxpayer, or the amounts for each.



1           B. The fiscal agent may be held harmless for any distribution made that  
2           complies with the provisions of both this Section and any applicable policies  
3           specified for the account by the board or the Cash Management Review Board.

4           C. The account, and any related funds included therein, shall be subject to  
5           audit by the legislative auditor. An annual report of account transactions concerning  
6           state cases shall also be submitted to the Cash Management Review Board. An  
7           annual report of the account's transactions concerning local cases shall be submitted  
8           to the local sales and use tax commission created pursuant to R.S. 47:302(K)(6).

9           D.(1) Except as provided for in Paragraphs (2) and (3) of this Subsection, the  
10           actual amount of interest earned on a taxpayer's deposits held in the Escrow Account  
11           shall be added to the principal sum held on deposit in the Escrow Account for that  
12           taxpayer and case, and shall be disbursed pursuant to Subsection A of this Section.

13           (2) In a case against only a state collector, one-tenth of one percent per  
14           month of the amount held in escrow for a case, not to exceed the actual amount of  
15           interest earned on monies in the Escrow Account from deposits made by a taxpayer  
16           in the case, shall be payable to the treasury and, after compliance with Article VII,  
17           Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and  
18           Redemption Fund, the monies remaining shall be deposited in and credited to the  
19           state general fund as self-generated revenues of the Board of Tax Appeals, and may  
20           be expended within the board's administrative program.

21           (3) In a case against a local collector, one-tenth of one percent per month of  
22           the amount held in escrow for a case, not to exceed the actual amount of interest  
23           earned on monies in the Escrow Account from deposits made by a taxpayer in the  
24           case, shall be deposited in and credited to the Local Tax Division Expense Fund,  
25           which is hereby created within the account.

26           E. The board, or its Local Tax Division, may assess a fee related to the  
27           optional methods of posting security provided for in R.S. 47:1434(B). This amount  
28           shall be determined pursuant to rules and regulations promulgated in accordance  
29           with R.S. 47:1413.

1           F. The board may deposit into the account any funds received from a party  
 2           for payment of the costs of service of process or for appeal costs, and it may pay the  
 3           amounts received to the appropriate sheriff for service of process or the appropriate  
 4           clerk of a court of appeals in the event of an appeal against a decision of the board  
 5           pursuant to R.S. 47:1434.

6           G.(1) The local tax judge may also order the payment of monies from the  
 7           Local Tax Division Expense Fund into the state treasury, and any amount so ordered  
 8           that remains after compliance with Article VII, Section 9(B) of the Constitution of  
 9           Louisiana, relative to the Bond Security and Redemption Fund, shall be deposited  
 10           in and credited to the state general fund as self-generated revenues of the Local Tax  
 11           Division of the Department of Civil Service, Board of Tax Appeals.

12           (2) Self-generated revenues of the Local Tax Division made available  
 13           pursuant to the provisions of Paragraph (1) of this Subsection may be expended for  
 14           any of the purposes specified in R.S. 47:1406, pursuant to the provisions of that  
 15           Section restricting their exclusive use to the purposes of the Local Tax Division and  
 16           the provisions of that Section providing for their retention and carry forward for such  
 17           purposes.

18   \*       \*       \*

19           §1522. Alternative dispute resolution

20           The secretary of the Department of Revenue may enter into contracts with the  
 21           approval of the attorney general, with individuals and organizations to conduct  
 22           alternative dispute resolution to arbitrate or to mediate any issue in order to assist in  
 23           the collection of any taxes, penalties, or interest due under Subtitle II of this Title in  
 24           an aggregate amount not to exceed five million dollars when such procedures are  
 25           deemed to be in the best interest of the state. The secretary of the Department of  
 26           Revenue shall have the authority to contract for the allocation of any costs of  
 27           alternative dispute resolution procedures. The secretary shall retain the authority to  
 28           contract for the nonbinding mediation of any dispute under Subtitle II of this Title

1 by any mediator qualified pursuant to R.S. 9:4106, or by any member of the Board  
2 of Tax Appeals.

3 \* \* \*

4 §1561. Alternative remedies for the collection of taxes

5 A.

6 \* \* \*

7 (4) Demand in reconvention, or third party demand, in any court of  
8 competent jurisdiction or before the Board of Tax Appeals concerning collection of  
9 state taxes due, including any related interest, penalties, costs, and attorney fees due  
10 under applicable law.

11 B.

12 \* \* \*

13 (3) ~~When a~~ After the deadline to file an answer or defenses, after he has  
14 appeared in, or after he has filed any responsive pleading or defenses in any  
15 proceeding or suit involving the same tax obligation is pending against him.

16 (4) When a third party demand for the same tax obligation is pending against  
17 him in a suit by the collector concerning collection of the same tax obligation.

18 \* \* \*

19 §1576. Remittance of tax under protest; suits to recover

20 \* \* \*

21 B. For income and corporation franchise tax purposes, in instances where the  
22 payment of tax under protest is required to be made before the amount of tax due is  
23 determinable, the taxpayer shall have thirty days from the due date of the tax return,  
24 or the extended due date of such return if applicable, to file suit or a petition with the  
25 Board of Tax Appeals for the recovery of such tax. If suit or a petition is filed within  
26 the thirty-day period and the taxpayer prevails, the secretary shall refund the amount  
27 to the claimant, with interest at the rate established pursuant to R.S. 13:4202

1            computed pursuant to R.S. 47:287.657 or R.S. 47:617 in the case of corporation taxes  
2            or R.S. 47:115 in the case of individual income tax.

3    \*            \*            \*

4            §1580. Suspension and interruption of prescription

5    \*            \*            \*

6                            B. The running of such prescription shall also be suspended prior to the lapse  
7            of the prescriptive period set out in the Constitution of Louisiana as hereinafter  
8            provided:

9    \*            \*            \*

10                            (5)(a) By the filing of a claim for refund for the period for which a refund  
11            is requested, which shall suspend prescription for the same period for the secretary  
12            to determine whether the taxpayer owes any other liability under the provisions of  
13            R.S. 47:1622.

14                            (b) The collector may not assert a collection remedy against a taxpayer for  
15            a tax that would have been prescribed but for this Paragraph except through a  
16            defense, answer, or reconventional demand in offset of an action concerning the  
17            claim for refund.

18                            (c) The provisions of Subparagraph (a) of this Paragraph governing the  
19            suspension of prescription shall not apply in the following circumstances:

20                            (i) The claim for refund referenced in this Paragraph has been granted.

21                            (ii) The claim for refund referenced in this Paragraph is denied and the  
22            refund denial is final and nonappealable.

23                            (iii) A judgment of the Board of Tax Appeals concerning the refund  
24            referenced in this Paragraph has become final.

25    \*            \*            \*

26            §1603. Waiver of penalty for delinquent filing or delinquent payment

27                            A.

28    \*            \*            \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           (3) In any case when the penalty exceeds twenty-five thousand dollars, it can  
2 be waived by the secretary only after approval by the Board of Tax Appeals.  
3 However, the secretary's waiver of a penalty as part of a voluntary disclosure  
4 program shall not require the approval of the board.

5   \*       \*       \*

6 §1621. Refunds of overpayments authorized

7   \*       \*       \*

8           D.

9   \*       \*       \*

10           (4) The first payment owed pursuant to the provisions of Paragraph (2) of  
11 this Subsection shall be made within the time specified in Paragraph (3) of this  
12 Subsection, and any subsequent payments shall be made no later than the same date  
13 of the respective subsequent calendar years.

14   \*       \*       \*

15 §1623. Prescription of refunds or credits

16   \*       \*       \*

17           F.(1) Provided that in any case in which the secretary pursues any remedy  
18 for the collection of tax pursuant to R.S. 47:1561, including the issuance of an  
19 assessment, the period of prescription for a refund or credit for the same types of tax  
20 and tax periods shall be suspended. However, the suspension of prescription  
21 authorized in this Subsection applies only in any of the following circumstances:

22           (a) When an assessment has been issued and the taxpayer has submitted a  
23 refund claim that is received by the collector prior to the assessment becoming final.

24           (b) When a summary proceeding has been filed and the taxpayer has timely  
25 appealed such claim for refund as an offset or credit in the summary proceeding.

26           (c) When an ordinary suit has been filed and the taxpayer has filed a timely  
27 reconventional demand for such refund or credit in such suit.

1                (2) If the refund claim would have been prescribed, but for this Subsection,  
2                the amount of the claim found due shall be credited or offset against the underpaid  
3                tax found due.

4                (3) Prescription shall not be suspended pursuant to the provisions of  
5                Paragraph (1) of this Subsection in any of the following circumstances:

6                    (a) An assessment has become final and non-appealable.

7                    (b) A judgment of the Board of Tax Appeals concerning the collection  
8                    remedy referenced in Paragraph (1) of this Subsection has become final.

9                    (c) A final judgment has been rendered by a district court in a related  
10                  summary or ordinary proceeding.

11    \*            \*            \*

12                §1625. Appeals from the collector's disallowance of refund claim

13                    A.(1) If the collector fails to act on a properly filed claim for refund or credit  
14                    within one year from the date received by him or if the collector denies the claim in  
15                    whole or in part, the taxpayer claiming such refund or credit may appeal to the Board  
16                    of Tax Appeals for a hearing on the claim filed. No appeal may be filed before the  
17                    expiration of one year from the date of filing such claim unless the collector renders  
18                    a decision thereon within that time, nor after the expiration of sixty days from the  
19                    date of mailing by registered mail by the collector to the taxpayer of a notice of the  
20                    disallowance of the part of the claim to which such appeal relates.

21                    (2) A taxpayer's proper appeal to the Board of Tax Appeals within sixty days  
22                    from the date on any notice of disallowance issued shall also establish that the appeal  
23                    was filed within sixty days from the date of certified or registered mailing of the  
24                    notice.

25                    ~~Any~~ B. A notice of disallowance, if issued, shall inform the taxpayer that  
26                    he has sixty days from the date of the certified or registered mailing of that notice to  
27                    appeal to the Board of Tax Appeals, and that any consideration, reconsideration, or  
28                    action by the collector with respect to such claim following the mailing of a notice

1 by registered mail of disallowance shall not operate to extend the period within  
2 which an appeal may be taken.

3 C. In answering any such appeal, the collector is authorized to assert a  
4 demand for any tax and additions thereto that he may deem is due for the period  
5 involved in the claim for refund or credit, and the Board of Tax Appeals shall have  
6 jurisdiction to determine the correct amount of tax for the period in controversy and  
7 to render judgment ordering the refunding or crediting or any overpayment or the  
8 payment of any additional tax, interest and penalty found to be due.

9 Section 2. Section 5 of Act No. 640 of the 2014 Regular Session of the Legislature,  
10 is hereby amended to read as follows:

11 Section 5. ~~The members of the Board of Tax Appeals on the effective date~~  
12 ~~of this Act shall continue to serve in such capacity at the pleasure of the governor~~  
13 ~~until the appointments to fixed terms are made in accordance with the provisions of~~  
14 ~~this Act.~~ Notwithstanding any provision of law to the contrary, a member of the  
15 board, including the local tax judge, shall be eligible for any assignment or  
16 appointment made pursuant to Article V, Section 5 or Section 22 of the Constitution  
17 of Louisiana, and ad hoc service pursuant to ~~that Section~~ those Sections shall not  
18 render a retired judge ineligible for an ad hoc appointment pursuant to R.S.  
19 47:1417(C)(2).

20 If any member of the board serving on ~~the effective date of this Act~~ June 12,  
21 2014, is appointed to a fixed term pursuant to the provisions of ~~this Act~~ R.S.  
22 47:1402, as amended by Act 640 of the 2014 Regular Session of the Legislature, his  
23 appointment shall not require additional confirmation by the Senate if he was  
24 confirmed or reconfirmed prior to ~~the effective date of this Act~~ June 12, 2014. The  
25 additional compensation of the hearing judge of the Local Tax Division shall ~~initially~~  
26 be equivalent to the compensation provided by the state for a part-time city court  
27 judge, together with three-fifths of the salary provided for city judges in the city of  
28 the board's official domicile, with any vacation leave accrued and paid in the same  
29 manner as for such judges. Notwithstanding any other provision of law to the

1 contrary, the local tax judge may participate in and contribute to group insurance and  
2 benefit plans in the same manner as any parish judge paid in part by the state and  
3 shall be entitled to reimbursement for expenses incurred in the discharge of his duties  
4 away from his parish of residence in the same amount as provided for under  
5 applicable law and Supreme Court rules for such judges. The Local Tax Division  
6 shall adopt formal written policies related to the implementation of this Section.

7 Section 3. Section 7 of Act No. 640 of the 2014 Regular Session of the Legislature,  
8 is hereby amended to read as follows:

9 Section 7. Upon the joint motion of all parties, a district court may transfer  
10 to the Board of Tax Appeals for adjudication, any matter pending before it on ~~the~~  
11 ~~effective date of this Act~~ June 12, 2014, if the matter falls within the jurisdiction of  
12 the board ~~following the effective date of this Act. For a period of one year following~~  
13 ~~the effective date of this Act, a~~ on or after June 12, 2014. A district court may  
14 transfer to the board any matter improperly filed in the district court which should  
15 have been filed with the board, and the matter shall be deemed to have been filed  
16 with the board on the date of its filing in the district court.

17 Section 4. The provisions of this Act amending R.S. 47:337.13.1, 337.28.1,  
18 337.81(A)(2), 337.86, 1401, and 1403 are procedural and interpretive and shall be effective  
19 on the effective date of Act No. 640 of the 2014 Regular Session of the Legislature.

20 Section 5.(A) The Board of Tax Appeals and its Local Tax Division are authorized  
21 to enter into an agreement with the Judicial Administrator's Office of the Supreme Court for  
22 the formation of a panel of potential ad hoc hearing judges, this agreement may provide for  
23 any matter related to a process for randomly selecting a panel member to fulfill the  
24 requirements of R.S. 47:1417(C)(2) in the event of a recusal requiring an appointment  
25 pursuant to that Subparagraph. The board and Judicial Administrators' Office are also  
26 authorized to enter into an agreement concerning any matter related to administering the  
27 payment of the expenses or compensation, and related withholding, for any hearing judge  
28 as provided for in R.S. 47:1403 or 1417. This agreement may provide that any payments  
29 shall be subject to and comply with the limits and applicable Supreme Court policies for the



1 assignment of retired judges to district courts. The relevant hearing judge in a case involving  
2 one or more local collectors may order that the related amounts taxed as fees or costs  
3 pursuant to those Sections be payable to the Escrow Account of the Registry of the Board  
4 for deposit in the Local Tax Division Expense Fund. In the event an agreement is entered  
5 into pursuant to the provisions of this Section, the fiscal agent shall pay from that fund all  
6 amounts necessary to satisfy any obligations under such agreement.

7 (B) If any payments for fees or costs provided for in Subsection A of this Section  
8 are not received from the relevant parties within sixty days, or are otherwise insufficient to  
9 pay the full amount owed, then the amount required to make the payments owed pursuant  
10 to this Section shall be paid from the fees and self-generated revenues of the Board of Tax  
11 Appeals or its Local Tax Division pursuant to an order of the chairman or local tax judge,  
12 as applicable to the case. In no event shall the amounts referenced in this Section ever  
13 become the liability of the Judicial Administrator's Office of the Supreme Court or the  
14 judiciary. If payment is made from fees and self-generated revenues of the Board of Tax  
15 Appeals or its Local Tax Division as provided in this Section, then any amount later  
16 recovered from the parties pursuant to R.S. 47:1403 or 1417 shall be deposited into the state  
17 treasury and, after compliance with Article VII, Section 9(B) of the Constitution of  
18 Louisiana, relative to the Bond Security and Redemption Fund, all remaining monies shall  
19 be deposited in and credited to the state general fund as self-generated revenues of the Board  
20 of Tax Appeals or its Local Tax Division, as applicable.

21 (C) Notwithstanding any provision of law to the contrary, in order to satisfy any  
22 anticipated obligations reasonably expected pursuant to the provisions of R.S. 47:1403,  
23 1417, or this Act, the local tax judge, following consultation with the Judicial Budgetary  
24 Control Council, the Judicial Administrator, or their designee, may order that the requisite  
25 amount from the Local Tax Division's surplus local fees and self-generated or surplus local  
26 interagency revenues be paid into the Local Tax Division Expense Fund. This provision  
27 shall not authorize the transfer of any funds encumbered for Local Tax Division  
28 expenditures at the end of a fiscal year, shall not authorize the transfer of any surplus funds  
29 carried forward and actually appropriated for the Local Tax Division's use in the subsequent

1 fiscal year, and shall not be applicable to any of the board's state funds in the administrative  
2 program.

3 Section 6. The operations of the Board of Tax Appeals are essential to the collection  
4 of state and local tax revenue. For the purposes of expenditure classification, all budget  
5 activities of the Local Tax Division shall be classified in the same manner as the board's  
6 essential activities that are directly required for collection of state general fund revenues  
7 recognized by the Revenue Estimating Conference. The delegated purchasing authority of  
8 the Local Tax Division in relation to the expenditure of local funds dedicated to the Local  
9 Tax Division pursuant to R.S. 47:302(K) shall not be reduced below the amount specified  
10 for small purchases pursuant to R.S. 39:1596.

11 Section 7. This Act shall become effective upon signature by the governor or, if not  
12 signed by the governor, upon expiration of the time for bills to become law without signature  
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
15 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 338 Reengrossed

2015 Regular Session

Danahay

**Abstract:** Procedures and requirements related to the collection and adjudication of state and local taxes, including various changes regarding the administration, membership, and authority of the Board of Tax Appeals.

Present law establishes the Board of Tax Appeals (board) to act as an appeal board to hear and decide questions of law and fact arising from disputes between a taxpayer or dealer and the state revenue collector in the enforcement of any tax, excise, license, permit or any other tax law administered by the collector, and between taxpayers or dealers and local sales and use tax collectors.

#### **Administration**

Present law provides funding for the board through an annual dedication of \$132,000 of use tax proceeds from the local government share of the use tax collections from sales by remote dealers for purposes of the board. This amount increases by \$5,000 on July 1, 2015. An increase of an additional \$5,000 per year is authorized for four subsequent years in which the total amount distributed to local government from such use tax proceeds exceeds the amount distributed in FY 2014.

Proposed law retains present law, but changes the amount dedicated to the board from the local share of use tax proceeds as follows.

- (1) Increase for July 1, 2015, from \$5,000 to \$55,000
- (2) Number of years in which the dedication may increase by \$5,000 from four to two years.

Present law establishes the board as an independent agency within the Dept. of State Civil Service.

Proposed law retains present law and establishes the Local Tax Division (local division) of the board as an independent agency within the board for purposes of exercising jurisdiction over disputes involving local collectors.

Proposed law authorizes the board to establish an Escrow Account (account) with the approval of the Cash Management Review Board, and to select a bank or financial institution to serve as its fiscal agent. The fiscal agent is authorized to distribute monies from the account pursuant to an order signed by the chairman of the board, its local tax judge, or a duly appointed ad hoc judge, or upon receipt of a certified non-appealable order of the relevant appellate or higher court.

Proposed law provides for the disposition of interest earned on monies deposited into the account for specific cases by taxpayers, a state collector, or a local collector.

Proposed law subjects the account transactions to audit by the legislative auditor, and requires annual reports to the Cash Management Review Board and the local sales and use tax commission established by present law with respect to transactions involving the state and local collectors, respectively.

Proposed law authorizes certain agreements between the board and its local tax division and the Judicial Administrator's Office of the Supreme Court regarding the compensation and expenses of ad hoc judges.

### **Membership**

Present law provides that the board is comprised of three members, one with a term of six years, and two with terms of four years. Officers of the board are designated, including a specific member to serve as hearing judge for the Local Tax Division of the board. Member compensation is set by the governor, and the hearing judge of the Local Tax Division receives extra compensation equivalent to the compensation provided by the state for a part-time city court judge.

Proposed law retains present law and provides that the judge of the Local Tax Division, to be known as the "local tax judge", shall be a distinct position in the unclassified service for purposes of the La. constitution governing public officials and employees.

Proposed law retains present law and provides for additional compensation and benefits for the hearing judge of the Local Tax Division as follows: additional compensation in the amount of three-fifths of the salary provided for city court judges in the city of Baton Rouge, the ability to earn vacation leave and pay in the same manner as those city court judges, eligibility for participation in group insurance plans in the same manner as any parish court judge partially paid by the state, and eligibility to be reimbursed expenses in the same manner as allowed for such judges.

**Adjudication of cases**

Present law provides that if a local collector hires a private attorney to assist in the collection of taxes, penalties, or interest due under present law, then the taxpayer shall be charged an additional 10% of the amount owed, with that amount of the extra charge subject to approval of the court.

Proposed law retains present law and adds authorization for board approval of the reasonableness of the attorney fees charged in the same manner as in a district court.

Present law provides for alternative remedies available to local collectors for the collection of taxes owed, which include assessment and distraint, summary court proceeding, or ordinary lawsuit.

Proposed law retains present law and adds a demand in reconvention, and a third-party demand as additional remedies in any court or before the board.

Present law provides procedures for a suit by a taxpayer to recover taxes which he paid under protest, and authorizes the payment of interest on the amount at issue if the taxpayer prevails.

Proposed law retains present law and adds the option of filing a pleading with the board as an alternative to filing suit in district court to recover taxes paid under protest for purposes of state and local sales and use, income, and corporation franchise taxes.

Present law imposes a three year limit on the amount of time in which a taxpayer may claim a refund or credit of an overpayment of taxes.

Proposed law retains present law and provides for circumstances in which the time limit may be suspended.

Present law requires that a taxpayer appealing a decision of the board post a bond as security which is payable to the collector in an amount not to exceed one and one-half times the tax, interest, penalties, and attorney fees.

Proposed law retains present law and adds authority for the taxpayer to fulfill the requirement for posting bond by paying into the account an amount equal to the amount required for security under present law.

Proposed law authorizes the board or its Local Tax Division to assess a fee related to the optional methods of posting security as provided in proposed law.

Proposed law authorizes the board and its Local Tax Division to enter into an agreement with the Judicial Administrators Office of the Supreme Court relative to the selection and compensation of ad hoc judges for the board or its Local Tax Division.

The provisions of proposed law amending R.S. 337.13.1, 337.28.1, 337.81(A)(2), 337.86, 1401, and 1403 shall be effective on the effective date of Act No. 640 of the 2014 Regular Session of the Legislature as the nature of such amendments is procedural and curative as relates to that Act of the legislature.

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

(Amends R.S. 47:302(K)(7)(b), 337.13.1(A)(2), (B)(1), and (C), 337.27, 337.28.1(B), 337.33(A)(5), 337.45(B), 337.63(A)(3) and (B), 337.64(B), 337.81(A)(2) and (B), 337.86(E)(2)(a), 1401, 1403(B)(5), 1418(4), 1434, 1438, 1522, 1561(B)(3), 1576(B), 1603(A)(3), and 1625, and §§5 and 7 of Act No. 640 of 2014 R.S.; Adds R.S. 47:337.45(A)(4), 337.51(B)(4), 337.63(E), 337.79(C), 337.81(A)(3), 1403(A)(4) and

(B)(6)(c), 1407(5), 1408(D) and (E), 1413(D) and (E), 1418(6) and (7), 1439, 1561(A)(4) and (B)(4), 1580(B)(5), 1621(D)(4), and 1623(F))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add the filing of a petition with the Board of Tax Appeals as an alternative to filing suit for recovery of taxes paid under protest.
2. Add provisions for the agreement between the Board of Tax Appeals and the Supreme Court regarding compensation for ad hoc judges for the court, to include the formation of a panel of potential ad hoc judges and other matters concerning the selection of such judges.