

2022 Regular Session

HOUSE BILL NO. 992

BY REPRESENTATIVE BEAULLIEU

TAX COMMISSION, STATE: Authorizes the Louisiana Tax Commission to hear claims for the refund of ad valorem property taxes erroneously paid on public service properties

1 AN ACT

2 To amend and reenact R.S. 47:2132(A), (B), and (D) and to enact R.S. 47:2132(C)(4),
3 relative to ad valorem property taxes; to provide with respect to certain claims on
4 certain property; to provide for the authority of the Louisiana Tax Commission to
5 hear certain claims; to provide for limitations and requirements; to require certain
6 notifications; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:2132(A), (B), and (D) are hereby amended and reenacted and R.S.
9 47:2132(C)(4) is hereby enacted to read as follows:

10 §2132. Refund of taxes erroneously paid

11 A.(1) Except as provided for in ~~Paragraph (2)~~ Paragraphs (2) and (3) of this
12 Subsection, any person who has a claim against a political subdivision for ad
13 valorem taxes erroneously paid into the funds of that political subdivision may
14 present the claim to the Louisiana Tax Commission within three years of the date of
15 the payment, in such form and together with ~~such~~ proof as the tax commission may
16 require by its rules and regulations; however, if a person is claiming a previously
17 unclaimed homestead exemption, it may be presented to the tax commission within
18 five years of the date of payment. ~~The~~ Except as provided for in Paragraph (2) of
19 this Subsection, the tax commission shall consult with the assessor of the parish in

1 which the property which is the subject of the claim is located, and after that assessor
2 advises the tax commission that a refund is due the claimant, the tax commission
3 shall duly examine the merits and correctness of each claim presented to it and shall
4 make a determination thereon within thirty days after receipt of the claim.

5 (2) The tax commission shall have sole authority to make a determination
6 based on the merits and correctness of a timely filed claim pursuant to this
7 Subsection for a refund of ad valorem taxes erroneously paid in connection with
8 public service property which is valued for assessment purposes in accordance with
9 Article VII, Section 18(D) of the Constitution of Louisiana without consultation with
10 the assessor of the parish in which the public service property is located. The
11 determination of the tax commission shall be based solely on the merits and
12 correctness of the claim filed pursuant to this Subsection without regard for the
13 alternative or supplemental rights and procedures of challenging the correctness or
14 legality of a valuation, assessment, or tax payment provided in Article VII, Section
15 18(E) of the Constitution of Louisiana, R.S. 47:1989,1998, or 2134.

16 ~~(2)(a)~~ (3)(a) Any person who prevails in a suit pursuant to R.S. 47:2134(C),
17 as deemed applicable by the court, against a political subdivision for any statutory
18 imposition that is declared invalid pursuant to a legal challenge for the payment of
19 the statutory imposition may present the claim to the tax commission within three
20 years of the date of the final judgment declaring the statutory imposition invalid and
21 awarding a monetary judgment, in a form prescribed by the tax commission in
22 accordance with its rules and regulations, along with a copy of the judgment
23 rendered by the court. The records of the tax commission shall note the date of
24 submission of the judgment by the taxpayer and shall order repayment of the
25 statutory impositions by the tax collector of the sums declared legally invalid,
26 together with interest and court costs, as directed by the court.

27 (b) The tax collector shall refund the sum of statutory impositions held to be
28 invalid, together with interest and court costs as directed by the court to the taxpayer
29 within thirty days of the order by the tax commission authorizing and directing the

1 tax collector to refund these sums. However, in lieu of a refund as required in this
2 Subparagraph, the tax collector may grant the taxpayer a credit up to the amount of
3 the statutory imposition ordered by the tax commission to offset ad valorem tax
4 liability or statutory impositions owed by the taxpayer. Any amount of unused credit
5 shall carryover to the benefit of the taxpayer until the total amount ordered by the tax
6 commission has been extinguished.

7 B.(1) Except as provided for in Paragraph (2) of this Subsection, if ~~if~~ the
8 claim is approved, the tax commission shall authorize and direct the collector, when
9 applicable, to correct the assessment on the roll on file in his office and shall
10 authorize and direct, when applicable, the recorder of mortgages to change the
11 inscription of the tax roll. The tax commission shall also authorize and direct the
12 refund and repayment of those taxes found to be erroneously paid as provided in this
13 Section. If the claim accrues to more than one person, as for example, the heirs and
14 legatees of another, and the claim is determined by the tax commission to be
15 properly due and owed, payment thereof to the party or parties asserting the same
16 shall not be denied because of the failure or refusal of others to join in and assert the
17 claim, but in such event only the portion due such claimant or claimants shall be
18 paid.

19 (2) Within thirty days of tax commission issuance its final determination
20 approving a claim made pursuant to Paragraph (A)(2) of this Section, the tax
21 commission shall authorize and direct the collector of the parish in which the public
22 service property which is the subject of the approved claim is located to refund and
23 repay the full amount of the taxes found to be erroneously paid as provided in this
24 Section.

25 C. The collector of ad valorem taxes in each political subdivision, upon
26 receipt of written notice from the tax commission that a particular refund or
27 repayment is owed, shall do one of the following:

28 * * *

1 (4) If the claim is made for taxes erroneously paid on public service property
2 pursuant to Paragraph (A)(2) of this Section, the collector shall immediately notify
3 the affected tax recipient bodies to remit to the collector their pro rata share of the
4 refund or repayment within thirty days of receipt of the notice. The collector shall
5 have an additional thirty days from receipt of funds from the tax recipient bodies to
6 remit the payment in full to the tax debtor. Failure by any tax recipient body or the
7 collector to timely remit monies shall cause interest to accrue at the legal rate in
8 favor of the tax debtor to be paid by the party failing to timely remit payment to the
9 debtor.

10 D. An action of the assessor or of the tax commission rejecting or refusing
11 to approve any claim made under the provisions of this Section may be appealed by
12 means of ordinary proceedings to the Board of Tax Appeals or to the district court
13 having jurisdiction where the property which is the subject of the claim is located.
14 However, if an appeal of the action of the tax commission following its rejection or
15 refusal to approve a claim made pursuant to Paragraph (A)(2) of this Section in
16 which the person claiming the right to a refund and repayment of taxes found to be
17 erroneously paid is successful as the result of a review by the Board of Tax Appeals,
18 that determination by the Board of Tax Appeals shall be final and the tax
19 commission shall have no further right to appeal to any district court or appeals court
20 located in East Baton Parish or having jurisdiction where the public service property
21 which is the subject of the appeal is located.

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)]

HB 992 Original

2022 Regular Session

Beaulieu

Abstract: Grants the La. Tax Commission sole authority to make a determination based on the merits and correctness of a timely filed claim for refund of ad valorem taxes erroneously paid in connection with public service property without consultation with the assessor.

Present law provides that, except for persons maintaining a legality challenge, any person who has a claim against a political subdivision for ad valorem taxes erroneously paid into

the funds of that political subdivision may present the claim to the La. Tax Commission ("tax commission") within three years of the date of the payment of the tax. Present law requires the tax commission to consult the assessor of the parish in which the property is located, and if advised by the assessor that a refund is due, the tax commission shall examine the merits and correctness of each claim presented to it and shall make a determination within 30 days after receipt of the claim.

Present law requires, when a claim is approved by the tax commission, the tax commission to direct the collector to correct the assessment on the roll on file in his office and direct the recorder of mortgages to change the inscription of the tax roll. Further requires the commission to direct the refund and repayment of those taxes found to be erroneously paid.

Proposed law retains present law.

Proposed law grants the tax commission sole authority to make a determination based on the merits and correctness of a timely filed claim for refund of ad valorem taxes erroneously paid in connection with public service property valued for assessment purposes in accordance with present constitution without consultation with the assessor of the parish in which the public service property which is subject of the claim is located. Proposed law requires the tax commission's determination to be based solely on the merits and correctness of the claim filed without regard for the alternative or supplemental rights and procedures of challenging the correctness or legality of a valuation, assessment, or tax payment provided in present constitution or present law.

Proposed law requires the tax commission to direct the collector of the parish in which the public service property which is subject of the approved claim is located to refund and repay the full amount of the taxes found to be erroneously paid within 30 days of issuance of its final determination approving a claim.

Present law provides for actions that a collector of ad valorem taxes in each political subdivision may take upon receiving written notice from the tax commission that a particular refund or repayment is owed.

Proposed law retains present law but adds that if the claim is made for taxes erroneously paid on public service property, the collector shall immediately notify the affected tax recipient bodies to remit to the collector their pro rata share of the refund or repayment within 30 days of receipt of the notice. Further grants the collector an additional 30 days from receipt of funds from the tax recipient bodies to remit payment in full to the tax debtor. Failure of a tax recipient body or the collector to timely remit monies shall cause interest at the legal rate to accrue in favor of the tax debtor to be paid by the party failing to timely remit payment to the debtor.

Presented law authorizes an action of the assessor or of the tax commission rejecting or refusing to approve any claim made pursuant to the provisions of present law to be appealed by means of ordinary proceedings to the Board of Tax Appeals or to the district court having jurisdiction where the property which is the subject of the claim is located.

Proposed law retains present law but provides that if a person appeals the tax commission's judgment to reject or refuse to approve a claim made on public service properties in which the person claiming the right to a refund and repayment of taxes is found to be erroneously paid is successful as the result of a review by the Board of Tax Appeals, the determination by the Board of Tax Appeals shall be final and the tax commission shall have no further right to appeal to any district court or appeals court.

(Amends R.S. 47:2132(A), (B), and (D); Adds R.S. 47:2132(C)(4))