#### Regular Session, 2014

#### HOUSE BILL NO. 863

# BY REPRESENTATIVES DANAHAY, JOHNSON, RITCHIE, ROBIDEAUX, WHITNEY, AND WILLMOTT

1	AN ACT
2	To amend and reenact R.S. 36:801.1(A) and R.S. 47:302(K)(6) and (7), 337.2(D),
3	337.45(A)(1) and (B), 337.48(A), 337.51(A), (B), and (C)(2), 337.53(C), 337.54,
4	337.63(A)(1) and (2), (B), and (D), 337.67(B)(3), (C)(3), and (D)(2), 337.77(F),
5	337.81(A)(2) and (C), 337.86(E)(2)(a), 337.101(A)(2)(a), 1401, 1402, 1403(A) and
6	(B), 1406, 1410, 1413, 1431, 1432, 1436, 1437, and 1451, and R.S. 49:968(B)(9), to
7	enact R.S. 36:53(J) and R.S. 47:337.2(A)(1)(c), 337.77(G), 337.81.1,
8	337.86(E)(1)(d), 1407(3), 1414(E), 1417, and 1418, and to repeal R.S. 36:4(B)(1)(p)
9	and R.S. 47:337.51.1 and 337.101(A)(2)(c), (B), and (C), relative to disputes
10	concerning taxes, fees, and claims against the state and its political subdivisions; to
11	provide relative to the composition, compensation, procedures, and jurisdiction of
12	the Board of Tax Appeals; to provide for the dedication of certain revenues for
13	support of the board; to transfer the board to the Department of State Civil Service;
14	to provide with respect to procedures for collection and adjudication of local sales
15	and use tax; to provide for redetermination of certain local sales and use tax
16	assessments and overpayments; to authorize the transfer of certain cases to and from
17	the board and certain courts; to provide for definitions; to provide for effectiveness;
18	and to provide for related matters.
19	Be it enacted by the Legislature of Louisiana:
20	Section 1. R.S. 36:801.1(A) is hereby amended and reenacted and R.S. 36:53(J) is
21	hereby enacted to read as follows:
22	§53. Transfer of boards, commissions, departments, and agencies to Department of
23	State Civil Service
24	* * *

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1	J. The Board of Tax Appeals is placed within the Department of State Civil	
2	Service as an independent agency and shall exercise its powers, duties, functions,	
3	and responsibilities in the manner provided for agencies transferred in accordance	
4	with the provisions of R.S. 36:801.1. The State Civil Service Commission, the	
5	Department of State Civil Service, and its director shall in no way interfere with,	
6	review, or change the decisions or operations of the agency so placed. There shall	
7	be a Local Tax Division of the Board of Tax Appeals.	
8	* * *	
9	§801.1. Transfer; retention of all functions	
10	A. The agencies transferred by the provisions of R.S. $36:4(B)(1)(dd)$ , (B)	
11	and (18) and (D), 4.1(C) and (G), 53(H) and (J), 209(R), 259(J), 409(N), 509(O),	
12	651(D), and 725(A) shall continue to be comprised and selected as provided by law.	
13	* * *	
14	Section 2. R.S. 47:302(K)(6) and (7), 337.2(D), 337.45(A)(1) and (B), 337.48(A),	
15	337.51(A), (B), and (C)(2), 337.53(C), 337.54, 337.63(A)(1) and (2), (B), and (D),	
16	337.67(B)(3), (C)(3), and (D)(2), 337.77(F), 337.81(A)(2) and (C), 337.86(E)(2)(a),	
17	337.101(A)(2)(a), 1401, 1402, 1403(A) and (B), 1406, 1410, 1413, 1431, 1432, 1436, 1437,	
18	and 1451 are hereby amended and reenacted and R.S. 47:337.2(A)(1)(c), 337.77(G),	
19	337.81.1, 337.86(E)(1)(d), 1407(3), 1414(E), 1417, and 1418 are hereby enacted to read as	
20	follows:	
21	§302. Imposition of tax	
22	* * *	
23	K. An additional tax shall be levied as follows:	
24	* * *	
25	(6) The taxes levied under this Subsection shall be collected by the	
26	Department of Revenue, advised by a sales and use tax commission consisting of	
27	seven nine members appointed as follows: two members appointed by the Louisiana	
28	Municipal Association; two members appointed by the Louisiana School Boards	
29	Association; two members appointed by the Police Jury Association of Louisiana;	
30	two members appointed by the Louisiana Sheriffs' Association; and one member	

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1appointed by the Louisiana Association of Tax Administrators. The secretary shall2assess a collection fee, not to exceed one percent of the proceeds of the tax, as3reimbursement for the actual cost of collection of the tax. The department shall keep4the commission informed on a regular basis of the collection and distribution of the5taxes collected, and the commission shall receive a copy of the executive budget6submission of the Local Tax Division of the Board of Tax Appeals.

7 (7)(a) Pursuant to an appropriation by the legislature, the secretary shall 8 annually provide for an interagency transfer in the amount of one hundred and thirty-9 two thousand dollars to the Department of State Civil Service, Board of Tax 10 Appeals, to be expended exclusively for the purposes of its Local Tax Division, and 11 thereafter distribute the proceeds of the tax to the central local sales and use tax 12 collector or, if none, the parish governing authority according to population. The 13 central local sales and use tax collector or the parish governing authority shall at no charge distribute the tax proceeds received from the secretary to each political 14 15 subdivision within the parish which levies a sales and use tax or receives a portion of the proceeds of a parishwide sales and use tax levy, in accordance with each such 16 17 political subdivision's pro rata share of local sales and use tax receipts collected on 18 all other transactions subject to local sales and use taxes during the most recent state 19 fiscal year for which data is available within thirty days of receipt of the proceeds.

20 (b) The amount specified in Subparagraph (a) of this Paragraph as 21 transferred to the Department of State Civil Service, Board of Tax Appeals, shall be 22 increased by five thousand dollars on July 1, 2015, and on the first day of each of the 23 four subsequent fiscal years when the amount distributed pursuant to this Subsection in the fiscal year immediately preceding that date actually exceeds the amount 24 25 distributed in fiscal year 2013-2014. The amounts specified in Subparagraphs (a) 26 and (b) of this Paragraph shall be transferred by the secretary within the first thirty days of each fiscal year and the Department of State Civil Service, Board of Tax 27 28 Appeals, may retain all funds which are transferred as directed in Subparagraphs (a) 29 and (b) of this Paragraph.

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1	§337.2. Intent; application and interpretation of Chapter
2	A.(1) The intention of the legislature in enacting the provisions of this
3	Chapter is as follows:
4	* * *
5	(c) To provide, in addition to existing judicial remedies, for an impartial,
6	economical, and expeditious forum where a taxpayer may choose to resolve disputes
7	arising under sales and use taxes imposed by local taxing authorities before the
8	Board of Tax Appeals, an independent quasi judicial agency within the Department
9	of State Civil Service; and to provide a uniform remedy for taxpayers appealing
10	assessments or denials or inaction on a refund claim, all for the purpose of promoting
11	uniformity and consistency in the interpretation and application of law governing
12	such taxes.
13	* * *
14	D. However, in the interest of making the assessment, collection,
15	administration, and enforcement of state and local sales tax uniform, it is the
16	intention of the legislature that both the provisions of this Chapter and the provisions
17	of local ordinances which are similar to provisions in Chapters 2, 2-A, 2-B, and 18
18	of this Subtitle shall be interpreted by the Board of Tax Appeals and the courts of
19	this state to have the same meaning and application as the provisions in those
20	Chapters.
21	* * *
22	§337.45. Alternative remedies for the collection of taxes
23	A. In addition to following any of the special remedies provided in this
24	Chapter, the collector may, in his discretion, proceed to enforce the collection of any
25	taxes due under the local ordinance by means of any of the following alternative
26	remedies or procedures:
27	(1) Assessment and distraint, as provided in R.S. 47:337.48 through 337.60;
28	provided that a taxpayer may utilize the mandatory arbitration procedure provided
29	for in R.S. 47:337.51.1.
30	* * *

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1	B. The collector may choose which of these procedures he will pursue in
2	each case, and the counter-remedies and delays to which the taxpayer will be entitled
3	will be only those which are not inconsistent with the proceeding initiated by the
4	collector, provided that in every case the taxpayer shall be entitled to proceed under
5	R.S. 47:337.63, except (a) after he has filed a petition with the Board of Tax Appeals
6	for a redetermination of the assessment, (b) when an assessment for the tax in
7	question has become final, or $(b)$ (c) when a suit involving the same tax obligation
8	is pending against him; and provided further, that the fact that the collector has
9	initiated proceedings under the assessment and distraint procedure will not preclude
10	him from thereafter proceeding by summary or ordinary court proceedings for the
11	enforcement of the same tax obligation.
12	* * *
13	§337.48. Determination and notice of tax due
14	A.(1) If a taxpayer fails to make and file any return or report required by the
15	provisions of the local ordinance and this Chapter, the collector shall determine the
16	tax, penalty, and interest due by estimate or otherwise. Having determined the
17	amount of tax, penalty, and interest due, the collector shall send by mail a notice to
18	the taxpayer at the address given in the last report filed by him pursuant to the
19	provisions of this Chapter, or to any address that may be obtainable from any private
20	entity which will provide such address free of charge or from any federal, state, or
21	local government entity, including but not limited to the U.S. Postal Service or from
22	U.S. Postal Service certified software, setting out his determination and informing
23	the person of his purpose to assess the amount so determined against him after
24	fifteen calendar days from the date of the notice.
25	(2) Notwithstanding any other provision of law to the contrary, a notice
26	issued pursuant to Paragraph $(1)$ of this Subsection to a taxpayer or dealer who fails

issued pursuant to Paragraph (1) of this Subsection to a taxpayer or dealer who fails
 to make and file any required report or return shall not be appealable to the Board of
 Tax Appeals for redetermination of the notice of tax due issued pursuant to this
 Section when the notice is solely for the periods and is in the amount stated on the
 notice transmitted to such taxpayer or dealer pursuant to Paragraph (1) of this

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1	Subsection. Nothing in this Paragraph shall prohibit any taxpayer or dealer from
2	proceeding to file suit pursuant to R.S. 47:337.63 or 337.64, or any other applicable
3	law.
4	* * *
5	§337.51. Notice of assessment and right to appeal or arbitration
6	A.(1) Having assessed the amount determined to be due, the collector shall
7	send a notice by certified mail to the taxpayer against whom the assessment is
8	imposed at the address given in the last report filed by said the taxpayer, or to any
9	address obtainable from any private entity which will provide such address free of
10	charge or from any federal, state, or local government entity, including but not
11	limited to the United States Postal Service or from the United States Postal Service
12	certified software. This notice shall inform the taxpayer of the assessment and that
13	he has thirty calendar days from the date of the notice to do any of the following:
14	(a) Pay the amount of the assessment.
15	(b) Appeal to the Board of Tax Appeals for redetermination of the
16	assessment.
17	(c) Pay under protest in accordance with R.S. 47:337.63, and then either file
18	suit or file a petition with the Board of Tax Appeals all as provided for in that
19	Section.
20	(2) If no report has been timely filed, the collector shall send a notice by $(2)$
21	certified mail to the taxpayer against whom the assessment is imposed at any address
22	obtainable from any private entity which will provide such address free of charge or
23	from any federal, state, or local government entity, including but not limited to the
24	United States Postal Service or from the United States Postal Service certified
25	software. This notice shall inform the taxpayer of the assessment and that he has
26	thirty calendar days from the date of the notice to (a) pay the amount of the
27	assessment; (b) request mandatory arbitration pursuant to R.S. 47:337.51.1 or; (c)
28	pay do either of the following:
29	(a) Pay the amount of the assessment.

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1	(b) Pay under protest in accordance with R.S. 47:337.63 and then either file
2	suit or file a petition with the Board of Tax Appeals, all as provided for in that
3	Section or request mandatory arbitration pursuant to R.S. 47:337.51.1.
4	(3) If the taxpayer has not paid under protest in accordance with the
5	provisions of R.S. 47:337.63, or pursued an alternative remedy in accordance with
6	R.S. 47:337.64, or filed an appeal with the Board of Tax Appeals within the thirty-
7	day period provided for in Paragraph (1) of this Subsection, the assessment shall be
8	final and shall be collectible by distraint and sale as provided in this Part. If an
9	appeal for a redetermination of the assessment has been timely and properly filed,
10	the assessment shall not be collectible by distraint and sale until such time as the
11	assessment has been redetermined or affirmed by the Board of Tax Appeals or the
12	court which last reviews the matter.
13	B. If any dealer shall be aggrieved by disputes any findings or assessment
14	of the collector, he may, within thirty days of the receipt of notice of the assessment
15	or finding, do any of the following:
16	(1)(a) File an appeal from the decision of the collector directed to <del>any state</del> ,
17	city, or federal court of competent jurisdiction the Board of Tax Appeals.
18	(b) Pay under protest in accordance with R.S. 47:337.63, and either file suit
19	as provided for in that Section, or make a written request for mandatory arbitration
20	pursuant to R.S. 47:337.51.1 file a petition with the Board of Tax Appeals as
21	provided in that Section.
22	(c) Mail a written request for mandatory arbitration pursuant to R.S.
23	47:337.51.1 without payment under protest.
24	(2) This Section shall afford a legal remedy and right of action in the Board
25	of Tax Appeals, or in any state, city, or federal court having jurisdiction of the parties
26	and subject matter for a full and complete adjudication of any and all questions
27	arising in the enforcement of the local ordinance and this Chapter as to the legality
28	of any tax accrued or accruing or the method of enforcement thereof. If an appeal
29	for a redetermination of the assessment has been timely and properly filed with the
30	Board of Tax Appeals pursuant to Subparagraph (1)(a) of this Subsection, the

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1	assessment shall not be collectible by distraint and sale until the assessment has been
2	redetermined or affirmed by the Board of Tax Appeals or the court which last
3	reviews the matter.
4	(3) A notice of tax due issued pursuant to the provisions of R.S. 47:337.48
5	shall not constitute a finding for purposes of this Subsection.
6	С.
7	* * *
8	(2) The determination of an error of fact or of law under this Subsection shall
9	be solely that of the collector, and no action against the collector with respect to the
10	determination shall be brought in any court, including the Board of Tax Appeals, and
11	no court shall have jurisdiction of any such action, it being the intent of this
12	Subsection only to permit the collector to correct manifest errors of fact or in the
13	application of the law made by the collector in making the assessment; however, all
14	reductions of assessments based on such errors, except estimated assessments made
15	due to the failure of the taxpayer to file a proper tax return, must be approved and
16	signed by the collector. Estimated assessments made due to the failure of the
17	taxpayer to file a proper tax return may be corrected by the acceptance of the proper
18	tax return and must be approved by the collector or his designee.
19	* * *
20	§337.53. Assessment and notice when tax is in jeopardy
21	* * *
22	C. The taxpayer against whom the assessment lies can stay distraint of his
23	property, or sale of his property already distrained, as the case may be, only by the
24	immediate payment of the assessment or by posting with the collector a surety bond
25	for twice the amount of such assessment, or of a lower amount acceptable to the
26	collector, with such sureties as the collector deems necessary. The taxpayer shall
27	have sixty calendar days from the date of payment, or the date of posting bond, to
28	appeal to a court of competent jurisdiction the Board of Tax Appeals for a
29	redetermination of the assessment. During this period, the collector shall hold any
30	payment made in an escrow account. If the taxpayer does not appeal, the collector

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shall immediately credit such payment to tax collections or proceed to collect from
sureties, if any were given. In the event of an appeal, such payment or demand for
payment from sureties given shall be held in abeyance pending the redetermination
or affirmation of the assessment by the <u>Board of Tax Appeals or the</u> court which last
reviews the matter. Final payment, or collection from sureties, will be for the
amount of the affirmed or redetermined assessment.

§337.54. Assessment and claims in bankruptcy and receivership

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8 Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy 9 proceeding, or the appointment of a receiver for any taxpayer in a receivership 10 proceeding, before any court of this state or of the United States, the collector may 11 immediately make a determination from any available information or by estimate or 12 otherwise, of the amount of tax, penalty and interest the taxpayer is liable to pay and 13 immediately assess said this amount, and by a writing to be retained as a part of his 14 official records indicate that such assessment has been made. Such assessment may 15 be made whenever a tax becomes due under the provisions of this Chapter, 16 regardless of whether it is then payable or not. Claims for such assessments, and 17 additional interest and attorney fees thereon, shall be presented for adjudication in 18 accordance with law to the court before which the bankruptcy or receivership 19 proceeding is pending despite the pendency of delays before assessment provided in 20 R.S. 47:337.48 through 337.51, or the pendency of an appeal to the collector, the 21 Board of Tax Appeals, or the courts for a redetermination. However, no petition for 22 the redetermination of an assessment shall be filed with the collector, the Board of 23 Tax Appeals, or the courts after an adjudication of bankruptcy or the appointment of 24 a receiver, unless the petition is accompanied by a certified copy of an order of the 25 court before which the bankruptcy or receivership proceedings is pending, 26 authorizing the trustee or receiver to prosecute such appeal.

- 27 \* \*
- 28 §337.63. Remittance of tax under protest; suits to recover

A.(1)(a) Any taxpayer protesting the payment of any amount found due by
 the collector or the enforcement of any provision of law in relation thereto shall

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remit to the collector the amount due and at that time shall give notice of intention to file suit for the recovery of such tax or shall remit to the collector the amount due, and make a written request for mandatory arbitration pursuant to R.S. 47:337.51.1 at that time give notice of intention to file a petition with the Board of Tax Appeals, as provided in this Section.

6 (b) In the case of sales or use taxes that are required to be collected and 7 remitted by a selling dealer as provided for in R.S. 47:337.17, the purchaser, in order 8 to avail himself of the alternative remedy provided by this Section, shall remit 9 protested sales or use tax to the selling dealer, and shall retain copies of 10 documentation evidencing the amount of the sales or use tax paid to the dealer on the 11 transactions. On or before the twentieth day of the month following the month of the 12 transactions on which the selling dealer charged the tax, the purchaser shall inform 13 the collector by certified mail or other reasonable means of the dates and amounts 14 of the protested taxes that were charged by the selling dealer, and shall give notice 15 of the purchaser's intention to file suit for recovery of the tax or to make a written 16 request for mandatory arbitration pursuant to R.S. 47:337.51.1 file a petition for 17 recovery of the tax with the Board of Tax Appeals, as provided by law.

18 (2) Upon receipt of this notice, the amount remitted to the collector or the 19 amount of protested taxes that have been paid to the selling dealer shall be placed in 20 an escrow account and held by the collector or his duly authorized representative for 21 a period of thirty days. If suit is filed for recovery of the tax or a written request for 22 mandatory arbitration is mailed as provided for in R.S. 47:337.51.1 petition is filed 23 with the Board of Tax Appeals for recovery of the tax, within the thirty-day period, 24 the funds in the escrow account shall be further held pending the outcome of the suit 25 or the arbitration proceeding petition with the Board of Tax Appeals or appeal 26 therefrom.

B. This Section shall afford a legal remedy and right of action in the Board
 of Tax Appeals as provided in this Section, or in any state court having jurisdiction
 of the parties and subject matter, for a full and complete adjudication of any and all

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1	questions arising in the enforcement of the sales and use tax of a taxing authority as			
2	to the legality of any tax accrued or accruing or the method of enforcement thereof.			
3	In such action, service of process upon the collector shall be sufficient service, and			
4	he shall be the sole necessary and proper party defendant in any such suit.			
5	* * *			
6	D. Upon request of a taxpayer and upon proper showing by such taxpayer			
7	that the principle of law involved in an additional assessment is already pending			
8	before the courts for judicial determination or before an arbitration panel as provided			
9	for in R.S. 47:337.51 the Board of Tax Appeals, the taxpayer, upon agreement to			
10	abide by the decision of the courts, an arbitration panel the Board of Tax Appeals,			
11	or by a final judgment of a court upon a timely appeal of a decision of an arbitration			
12	panel the Board of Tax Appeals, may remit the additional assessment under protest,			
13	but need not file an additional suit or make another mandatory arbitration request			
14	petition. In such cases, the tax so paid under protest shall be placed in an escrow			
15	account and held by the collector until the question of law involved has been			
16	determined by the courts, an arbitration panel the Board of Tax Appeals, or by a final			
17	judgment of a court upon a timely appeal of a decision of an arbitration panel the			
18	Board of Tax Appeals, and shall then be disposed of as therein provided.			
19	* * *			
20	§337.67. Suspension and interruption of prescription			
21	* * *			
22	B. The prescriptive period running against any such sales and use tax shall			
23	be interrupted by any of the following:			
24	* * *			
25	(3) The filing of any pleading, either by the collector or the taxpayer, with			
26	the Board of Tax Appeals or with any state or federal court.			
27	* * *			
28	C. The running of such prescriptive period may also be suspended as			
29	follows:			
30	* * *			

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1	(3) By use of the mandatory arbitration procedure provided for in R.S.
2	47:337.51.1. the filing of a claim for refund as to the period for which a refund is
3	requested, which shall suspend prescription for the same period for the collector to
4	determine whether the taxpayer owes any other liability for the same type of tax
5	under the provisions of R.S. 47:337.78.
6	D.
7	* * *
8	(2) However, if a taxpayer who does not file a tax return required to be filed
9	by this Chapter later becomes responsible for the filing of such return due to a
10	decision of the Board of Tax Appeals which has become final, or due to a final court
11	decision rendering which renders a transaction or other activity as taxable, and the
12	laws, regulations, or jurisprudence of this state previously classified that transaction
13	or other activity as nontaxable, this provision shall not apply and prescription shall
14	run as if the taxpayer had timely filed the return.
15	* * *
16	
10	§337.77. Refunds of overpayments authorized
17	\$337.77. Refunds of overpayments authorized * * * *
17	* * *
17 18	* * * F. This Section shall not be construed to authorize any refund of tax overpaid
17 18 19	* * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the
17 18 19 20	* * * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer
17 18 19 20 21	* * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	* * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover <u>or</u>
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	* * * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover <u>or</u> <u>petition to the Board of Tax Appeals, as provided by law</u> .
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	<ul> <li>* * *</li> <li>F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover or petition to the Board of Tax Appeals, as provided by law.</li> <li><u>G. A claim for a refund or credit in a properly addressed envelope with</u></li> </ul>
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ol>	* * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover or petition to the Board of Tax Appeals, as provided by law. G. A claim for a refund or credit in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed by
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ol>	* * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover or petition to the Board of Tax Appeals, as provided by law. G. A claim for a refund or credit in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed by the taxpayer and received by the collector on the date postmarked by the United
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> </ol>	* * * F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover or petition to the Board of Tax Appeals, as provided by law. G. A claim for a refund or credit in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed by the taxpayer and received by the collector on the date postmarked by the United States Postal Service. Additionally, a claim for refund or credit is deemed filed by

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

A.

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4 (2) The taxpayer may appeal a denial of a claim for refund to a court of 5 competent jurisdiction or mail a written request for mandatory arbitration pursuant 6 to R.S. 47:337.51.1 the Board of Tax Appeals, as provided by law. No appeal may 7 be filed or request for arbitration made before the expiration of one year from the 8 date of filing such claim unless the collector renders a decision thereon within that 9 time, nor after the expiration of ninety days from the date of mailing by certified or 10 registered mail by the collector to the taxpayer of a notice of the disallowance of the 11 part of the claim to which such appeal relates, nor after the expiration of one hundred 12 eighty days from the end of the year in which the collector failed to act. 13 14 C. In answering any such appeal, the collector is authorized to assert a 15 demand for any tax and additions thereto that he may deem is due for the period involved in the claim for refund or credit, and the Board of Tax Appeals shall have 16 17 jurisdiction to determine the correct amount of tax for the period in controversy, and 18 to render judgment ordering the refund or crediting of any overpayment or ordering 19 the payment of any additional tax, interest, penalty, attorney fees, and other amounts 20 found to be due. 21 §337.81.1. Board of Tax Appeals' finding of overpayment upon appeal from 22 assessment 23 If the Board of Tax Appeals, pursuant to a hearing of an appeal from an 24 assessment of the collector in accordance with the provisions of R.S. 47:337.51, 25 337.53, or 337.54, finds that there is no tax due and further finds that the taxpayer 26 has made a refundable overpayment of the tax for the period for which the collector 27 asserted the claim for additional tax, the Board of Tax Appeals shall have jurisdiction 28 to determine the amount of the overpayment, and to order that the amount of 29 overpayment be refunded or credited to the taxpayer; however, the Board of Tax 30 Appeals shall not order a refund or credit unless, as part of its decision, it determines

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1	that either the petition of appeal in which the refund or credit was requested was filed
2	within the period set out in R.S. 47:337.79, or that a claim for the refund or credit
3	had been filed with the collector within that period.
4	* * *
5	§337.86. Credit for taxes paid
6	* * *
7	E.(1) Notwithstanding any other law to the contrary, no person shall be taxed
8	with respect to a particular event more than once, provided that the person collecting
9	and remitting taxes can produce to the collector documentary evidence to show a
10	good faith effort to recover taxes paid to the incorrect taxing authority. Such
11	documentary evidence shall consist of the following:
12	* * *
13	(d) Notwithstanding any provision of law to the contrary, any taxpayer who
14	receives an assessment and who has complied with any applicable provisions of
15	Subparagraphs (a) through (c) of this Paragraph, may within thirty calendar days of
16	the date of notice, take any action specified in R.S. 47:337.51(A)(1).
17	(2)(a) The collector shall not impose penalties or interest on taxes
18	erroneously paid to another taxing authority unless the erroneous payment was the
19	result of intentional conduct of or gross negligence on the part of the persons
20	collecting and remitting taxes. In instances where a legitimate disagreement exists
21	as to which taxing authority is owed, the involved taxing authorities shall resolve the
22	dispute among themselves through any legal means, including the filing of a rule or
23	petition in the manner provided for in R.S. 47:337.101.
24	* * *
25	§337.101. Procedures to seek uniformity of interpretation of common or local sales
26	tax law
27	Α.
28	* * *
29	(2) Such taxpayer or collector may proceed to seek uniformity of
30	interpretation of a rule, regulation, policy or interpretation of sales and use tax laws,

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1	ordinances, rules, or regulations in accordance with any remedy available under
2	applicable law, including the following procedures:
3	(a) A rule to seek uniformity of interpretation of common sales tax law or
4	local sales tax law in any court of competent jurisdiction, or in the Board of Tax
5	Appeals.
6	* * *
7	§1401. Creation of board of tax appeals
8	In order to provide a board that will act as an appeal board to hear and decide,
9	at a minimum of expense to the taxpayer, questions of law and fact arising from
10	disputes or controversies between a taxpayer and the collector of revenue of the State
11	of Louisiana in the enforcement of any tax, excise, license, permit or any other tax
12	law administered by the collector, and to exercise jurisdiction as provided for in the
13	Uniform Local Sales Tax Code, the Board of Tax Appeals, hereinafter referred to as
14	the board, is created as an independent agency in the executive department of the
15	state government Department of State Civil Service, and for the purposes of this
16	Chapter.
17	§1402. Membership of board; qualifications; appointment; term; vacancy; salary
18	A.(1) The Board of Tax Appeals shall be composed of three members who
19	shall be attorneys and who shall be qualified electors of the state. At least two of the
20	board members shall be attorneys with tax law experience. At least one of these two
21	board members shall be certified as a Tax Law Specialist by the Louisiana Board of
22	Legal Specialization. Each member shall be appointed by the governor and shall
23	serve at the pleasure of the governor. Vacancies shall be filled in the manner of the
24	original appointment.
25	(2) For the purposes of this Subsection, tax law experience shall mean an
26	attorney admitted to the practice of law in Louisiana who possesses a Masters of Law
27	in Taxation or Tax Law, is board certified as a Tax Law Specialist in this state, is
28	licensed as a certified public accountant in this state, or who has served pursuant to
29	Article V, Section 22 of the Louisiana Constitution as a judge of a district or
30	appellate court.

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1	
2	

B. Each appointment to the board by the governor shall be submitted to the Senate for confirmation.

3 C. The term of members in office prior to twelve o'clock noon on July 16, 4 1984 shall be deemed to have terminated as of July 16, 1984; however, any such member shall remain in office until his successor is appointed and takes office 5 6 governor shall make the following appointments on or before September 1, 2014: 7 one member with a term expiring February 1, 2016, and one member with a term 8 expiring February 1, 2018. Any subsequent appointments pursuant to this 9 Subsection shall be for either a fixed term of four years or for the remainder of an 10 unexpired term.

11D.(1) On or before August 1, 2014, the governor shall appoint one member12to a term expiring February 1, 2020, from a list of qualified nominees provided by13the nominating committee established pursuant to this Subsection. Any subsequent14appointments pursuant to this Subsection shall be for either a fixed term of six years15or for the remainder of an unexpired term.

16(2) The nominating committee shall be responsible for developing a list of17not less than one, nor more than three, qualified nominees for any vacancy. Any18person nominated by the committee must be an attorney with experience in19Louisiana sales tax law, and at least one nominee shall be certified as a Tax Law20Specialist by the Louisiana Board of Legal Specialization.

21 (3) The Local Tax Division Nominating Committee is hereby established to
 22 be comprised of eight members who shall be either an attorney licensed to practice
 23 law in Louisiana, a certified public accountant, or a parish tax administrator. The
 24 committee shall be comprised of the following members:

(a) A representative of the Louisiana Association of Business and Industry.
 (b) A representative of the Society of Louisiana Certified Public
 Accountants, selected in consultation with the Business and Industry Committee of
 the Louisiana Association of Tax Administrators.

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1	(c) Two representatives of the section on taxation of the Louisiana State Bar
2	Association, with one selected in consultation with the National Bar Association
3	Greater New Orleans Chapter Louis A. Martinet Society.
4	(d) A representative of the Louisiana Municipal Association.
5	(e) A representative of the Police Jury Association of Louisiana.
6	(f) A representative of the Louisiana School Boards Association.
7	(g) A representative of the Louisiana Sheriffs' Association.
8	(4) The secretary-clerk of the board shall maintain the records of the
9	nominating committee, and shall call an organizational meeting of the nominating
10	committee in order for the nominating committee to elect its chairman. The
11	chairman, or a majority of committee members, may call meetings of the committee,
12	and shall provide advance notice of all meetings to the members and to the
13	appointing entities referenced in Paragraph (3) of this Subsection.
14	(5) Six members shall constitute a quorum for the transaction of committee
15	business, and each nomination must be approved by a favorable vote of at least five
16	committee members.
17	E.(1) A board member shall continue to serve until a successor has been
18	appointed. No member may be removed during an unexpired term of office except
19	for good cause shown, which shall be subject to judicial review.
20	(2) A member who has served on the board for more than two and one-half
21	terms occurring within three consecutive terms shall be ineligible for reappointment
22	to the board until at least two years from the last day of his last appointment.
23	However, a member may be reappointed notwithstanding any other provision of law
24	to the contrary, if nominated pursuant to Subsection D of this Section, and service
25	pursuant to that Subsection is not counted for the purposes of any term or service
26	limitation.
27	F. The governor shall establish the compensation to be paid to members of
28	the board, including any additional compensation for its officers. A member's
29	compensation shall not be reduced during their unexpired term of office.

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1	§1403. Designation of chairman officers; domicile; quorum; seal
2	A.(1) The governor shall designate a chairman from the membership of the
3	Board of Tax Appeals.
4	(2) The member other than the chairman with the longest service on the
5	board shall be its vice chairman, and shall perform duties as may be specified in the
6	rules of the board and delegated by the chairman.
7	(3) The member appointed pursuant to R.S. 47:1402(D) shall be the hearing
8	judge of the Local Tax Division of the board. For the purposes of the Local Tax
9	Division, the judge shall exercise all jurisdiction, authority, and powers of the board
10	and its chairman, including the hearing of cases to be adjudicated in the division and
11	the rendering of orders and judgments in such cases. The remainder of the board
12	may temporarily exercise these functions during any vacancy in this appointment,
13	but may hear and render judgment in a case in the division only if this appointment
14	remains vacant for more than ninety days.
15	B. $(1)$ The principal office and domicile of the board shall be at Baton Rouge,
16	Louisiana.
17	(2) The board may hold meetings at any place within the state, and any
18	member, when designated by the chairman, may act as a hearing judge and conduct
19	hearings for the purpose of receiving testimony, argument, or both and reporting his
20	findings of fact, law, or both to the board for decision or judgment.
21	(3) The time and place of meetings and hearings shall be designated by the
22	chairman, with a view of securing reasonable opportunity to taxpayers to appear
23	before the board with as little inconvenience and expense to taxpayers parties and
24	witnesses as is practicable.
25	(4) With the consent of all parties or upon the request of the taxpayer in a
26	pre-trial matter involving only a state collector, the board may allow for a hearing
27	to be held by telephone, video conference, or similar communication equipment,
28	including the administration of oaths in proceedings.
29	(5) Upon the motion of the local collector, a hearing in a matter involving
	only local taxing authorities from a single parish shall be held in that parish. The

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1	respective district or other local court shall make available any facilities necessary
2	for the hearing, and any relevant expenses may be taxed as costs, including any costs
3	for a hearing judge in the same amount as specified in R.S. 47:1417(C)(2).
4	(6)(a)(i) Upon the joint motion of all parties in any matter, or pursuant to an
5	election made by the local collector in accordance with the provisions of
6	Subparagraph (b) of this Paragraph, a case filed with the board shall be heard in the
7	board's Local Tax Division.
8	(ii) A case designated to be heard in the Local Tax Division shall be
9	adjudicated as provided for in R.S. 47:1403(A)(3).
10	(iii) A case designated to be heard in the Local Tax Division may thereafter
11	instead be heard and adjudicated by the entire board only upon the joint motion of
12	all parties. However, any board member may exercise the powers granted in R.S.
13	47:1408, and the chairman may issue other non-dispositive orders concerning cases
14	in the division upon the joint motion of all parties or, in the absence of and at the
15	direction of the hearing judge.
16	(b) A local collector may elect in advance to have all cases against that local
17	collector heard in the Local Tax Division. Such election shall be made, or repealed,
18	in the form of an affidavit executed by the local collector. The affidavit shall be
19	effective only for those cases filed with the board against that local collector at least
20	ninety days after the filing of the affidavit with the board's secretary-clerk. The
21	secretary-clerk shall publish a list on the board's website identifying the respective
22	dates on which any such affidavits were filed.
23	* * *
24	§1406. Expenditures
25	The board is authorized to make such expenditures (including expenditures
26	for personal services and for law books, books of reference and periodicals), as may
27	be necessary to efficiently to execute the functions vested in the board. All
28	expenditures of the board shall be allowed and paid, out of any moneys appropriated
29	for the purposes of the board. The board's self-generated revenue from local cases
30	filed with the board pursuant to the provisions of the Uniform Local Sales Tax Code

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1	shall be expended exclusively for the purposes of its Local Tax Division, and may
2	be retained by the board and carried forward for such purposes.
3	§1407. Jurisdiction of the board
4	The jurisdiction of the board shall extend to the following:
5	* * *
6	(3) All matters related to other jurisdiction otherwise provided by law,
7	including rules to seek uniformity of interpretation of common sales and use tax law
8	or local sales and use tax law, as provided in R.S. 47:337.101(A)(2).
9	* * *
10	\$1410. Findings of fact, decisions, and opinions
11	$\underline{A}$ . The board shall, in each case heard by it, or in any matter referred to it by
12	the collector or in each case submitted to it upon stipulations of agreement and fact,
13	make issue written findings of fact and conclusions of law and make and file a
14	written decision or judgment thereon.
15	<u>B.(1)</u> The board may, in its discretion, issue an opinion in writing written
16	reasons in addition to its findings of fact and decision or judgment.
17	(2) Upon the request of any party, the board shall issue written reasons in
18	addition to its judgment in a case.
19	(3) Any additional written reasons issued pursuant to this Subsection shall
20	be published on the board's website.
21	* * *
22	§1413. Rules and regulations
23	<u>A.</u> In all other matters regarding the conduct of its hearings, the board may
24	prescribe and promulgate rules and regulations not inconsistent with law or the
25	provisions of this Chapter <del>, which rules and regulations when prescribed, adopted and</del>
26	promulgated. Upon promulgation, the rules and regulations shall be binding upon
27	parties litigant in any cause over which the jurisdiction of this board shall extend.
28	B. Rules related to the establishment of fees chargeable for filings and for
29	services rendered by the board shall be subject to review, suspension, or veto
30	pursuant to R.S. 49:968 through 970.

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1	C. The rules and regulations of the board shall be annually reviewed, and
2	may be revised as necessary to provide relative to a prompt adjudication of cases
3	filed against local collectors.
4	\$1414. Persons authorized to appear before the board
5	* * *
6	E. A local collector may be represented by any designated employee of the
7	local collector.
8	* * *
9	<u>§1417. Recusal; board members</u>
10	A. In accordance with the provisions of the Code of Civil Procedure, a board
11	member may voluntarily recuse himself and withdraw from any proceeding in which
12	he cannot accord a fair and impartial hearing or consideration.
13	B.(1) Any party may also request the recusal of a board member by filing a
14	motion for recusal promptly upon learning of the basis for the disqualification,
15	stating with particularity the grounds upon which it is claimed that a fair and
16	impartial hearing cannot be accorded.
17	(2) The issue shall be determined promptly by the remaining board members
18	in accordance with the rules of the Code of Civil Procedure concerning the recusal
19	of district judges.
20	C.(1) Upon the entry of an order of recusal concerning a board member or
21	members, the remaining board members may hear and decide the case, or the
22	chairman may assign the case to be heard in accordance with R.S. 47:1403(B)(2),
23	and the board member acting as hearing judge shall render the judgment of the
24	board.
25	(2) If all board members are recused, the chairman shall promptly notify the
26	chief justice of the Louisiana Supreme Court, who shall appoint a retired judge to
27	adjudicate the case as a hearing judge ad hoc for the board and to render the
28	judgment of the board in the matter. For purposes of this Subsection, any person
29	who has held office as a judge pursuant to Article V, Section 22 of the Constitution
30	of Louisiana may be appointed. The retired judge shall be compensated pursuant to

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1	R.S. 11:1384 as for a district court from funds available to the board, and these
2	expenses may be assessed as costs.
3	(3) Upon entry of an order of recusal concerning the board member presiding
4	over a case in the Local Tax Division, the case shall be reassigned to be heard in
5	accordance with Paragraph (2) of this Subsection, or, upon a joint motion of all
6	parties it may either be heard pursuant to Paragraph (1) of this Subsection or be
7	transferred to the district court of proper venue.
8	D. Notwithstanding any provision of law to the contrary, including Chapter
9	15 of Title 42 of the Louisiana Revised Statutes of 1950, as amended, if any member
10	of the board is recused from a case pursuant to this Section, he may continue to serve
11	as a member of the board while the remainder of the board adjudicates a taxpayer's
12	appeal or claim, but the board member shall have no participation or involvement in
13	any case in which he is recused.
14	<u>§1418. Definitions</u>
15	For purposes of this Chapter, except when the context requires otherwise, the
16	words and expressions defined in this Section shall have the following meanings:
17	(1) "Board" means the Board of Tax Appeals.
18	(2) "Collector" means the state collector or a local collector, unless specified
19	otherwise.
20	(3) "Local collector" means any of the following:
21	(a) The individual or entity designated as the single collector of the sales and
22	use taxes of any parish, municipality, school board, any other unit of local
23	government, and any special district whose boundary is not coterminous with the
24	state, and their duly authorized assistants in relation to a tax levied by any local
25	political subdivision within the jurisdiction of the Board of Tax Appeals.
26	(b) The agent or successor to any of the above, including any joint
27	commission, authority, or other duly constituted single collection entity, created by
28	an agreement, when administering or collecting the taxes of any local political
29	subdivision within the jurisdiction of the Board of Tax Appeals.

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1	(4) "Petition" means a separate and distinct pleading filed against the
2	relevant state collector or local collector. A petition filed against a state collector
3	shall not interrupt or suspend the time period within which a taxpayer must file a
4	petition against any local collector, and a petition filed against a local collector shall
5	not suspend or interrupt the time period within which a taxpayer must file a petition
6	against a state collector or a different local collector.
7	(5) "State collector" means any of the following:
8	(a) The secretary of the Department of Revenue, including the secretary's
9	duly authorized assistants, when used in reference to any tax or fee administered by
10	the department.
11	(b) The assistant secretary of the office of motor vehicles within the
12	Department of Public Safety and Corrections, including the assistant secretary's duly
13	authorized assistants, when used in reference to any state tax or fee administered by
14	the office and within the jurisdiction of the Board of Tax Appeals.
15	(c) The commissioner of the office of alcohol and tobacco control, within the
16	Department of Revenue, when used in relation to any state tax or fee administered
17	by the office and within the jurisdiction of the Board of Tax Appeals.
18	(d) The agent or successor of any of the foregoing offices when
19	administering a state tax or fee within the jurisdiction of the Board of Tax Appeals.
20	* * *
21	§1431. Taxpayer's petition
22	<u>A.</u> Whenever a taxpayer is aggrieved by an assessment made by the state
23	collector, or by the state collector's action or failure to act on a claim for refund or
24	credit of an overpayment, such taxpayer may appeal to the board for a
25	redetermination of the assessment or a determination of the alleged overpayment, by
26	filing a petition with the board within the respective periods set forth in R.S.
27	47:1565, 1566 <u>,</u> and <del>47:</del> 1625.
28	B. If a taxpayer has complied with the provisions of R.S. 47:337.63 or 1576,
29	the taxpayer may file a payment under protest petition with the board within the
30	respective periods set forth therein.

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1	C. If a taxpayer disputes an assessment made by a local collector, or a local
2	collector's action or failure to act on a claim for a refund or credit of an overpayment,
3	the taxpayer may appeal to the board for a redetermination of the assessment or a
4	determination of the alleged overpayment, by filing a petition with the board as
5	provided in R.S. 47:337.51, 337.53, or 337.81.
6	§1432. Notice; hearing; decision
7	$\frac{1}{10}$ A. The taxpayer and the collector shall be afforded notice and opportunity
8	to be heard in each proceeding for the redetermination of an assessment, the
9	consideration of a payment under protest petition, or for the determination of an
10	overpayment notice and opportunity to be heard shall be given to the taxpayer and
11	the collector and a <u>A</u> decision or judgment in such matters shall be made as quickly
12	as practicable.
13	B.(1) The board has no jurisdiction to declare a statute or ordinance
14	unconstitutional. When the taxpayer or collector has pled the unconstitutionality of
15	a statute or ordinance, the board shall order the case transferred to the district court
16	of proper venue upon the motion of any party if the board finds that the case cannot
17	be resolved without reaching a declaration on the alleged unconstitutionality.
18	(2) A district court shall consider de novo the issues of unconstitutionality
19	pled in any case transferred to it pursuant to this Subsection, but upon the joint
20	motion of all parties and the attorney general, the board may develop a record and
21	make a recommendation to the district court on the issue.
22	C. Except upon the joint motion of all parties, the board shall not consolidate
23	a case against a local collector with a case against a state collector or with a case
24	against one or more other local collectors; however, nothing in this Part shall prevent
25	the board, upon the joint motion of all parties and when in the interest of justice and
26	efficiency, from ordering a consolidated hearing for the adjudication of pending
27	cases, provided that each party's own counsel or qualified representative and
28	witnesses may appear and present its case, and provided that the board shall render
29	a separate judgment for any case brought against a local collector, even when such
30	case is considered in a joint hearing together with another case or cases.

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1	D. If an assessment of a local collector is appealed to the board for
2	redetermination that covers both a sales and use tax matter that is appealable to the
3	board together with a tax matter that is not appealable to the board, the local
4	collector may either consent to the board's adjudication of the matter or consent that
5	the appealable assessment should be reduced by a stipulated amount, and the local
6	collector may then immediately, and without any other delays provided for by law,
7	issue a new assessment for the stipulated amount. The taxpayer's rights and
8	remedies concerning the newly issued assessment shall run from the date of its
9	issuance. The board shall retain jurisdiction to adjudicate all other issues concerning
10	the redetermination or affirmation of the appealed assessment, but shall include the
11	stipulated reduction in its final judgment together with its other findings.
12	* * *
13	§1436. Determination of which district appellate court has jurisdiction
14	A. A decision or judgment of the board in a case against a state collector
15	may be reviewed <u>as follows</u> :
16	(1) In the case of an individual, by the district court of appeal for the district
17	whereof parish in which he is a resident domiciled, or if not a resident of domiciled
18	in any district parish, then by the district court of appeal for the parish of East Baton
19	Rouge.
20	(2) In the case of a juridical person other than an individual, except as
21	provided in paragraphs (3), (4), and (5) Paragraphs (3) and (4) of this Section
22	Subsection, by the district court of appeal for the parish of East Baton Rouge.
23	(3) In the case of a corporation which has a principal office or agency in
24	Louisiana, then by the district court of appeal for the district parish where such
25	principal office or agency is located.
26	(4) In the case of a corporation which has no principal office or agency in
27	Louisiana, then by the district court for the parish of East Baton Rouge.
28	(5) In the case of an agreement between the <u>state</u> collector and taxpayer, then
29	by the district court of appeal as stipulated in the agreement.

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1	B. A judgment of the board in a case against a local collector may be
2	reviewed as follows:
3	(1) In the court of appeal for the parish where the tax being litigated is
4	levied, except as provided for in Paragraph (2) of this Subsection.
5	(2) In the case of an agreement between the local collector and taxpayer,
6	then by the court of appeal as stipulated in the agreement.
7	C. A judgment of the board in cases that have been consolidated by a joint
8	motion of all parties, including a state collector, may be reviewed as provided for in
9	Subsection A of this Section.
10	D. A judgment of the board in cases that have been consolidated by a joint
11	motion of all parties may be reviewed as provided for in Subsection B of this
12	Section, with the parish of venue designated in the joint motion.
13	§1437. Effect of final judgment
14	$\underline{A}$ . When the decision or judgment of the board which has become final
15	contains a finding that the taxpayer is liable for the payment of an amount of tax,
16	interest and penalty, such amount shall be paid by the taxpayer upon notice and
17	demand from the collector, and shall be collectible by distraint and sale, as provided
18	in R.S. 47:1570 through <del>47:1573</del> <u>1573, or 337.57 through 337.60, or any other means</u>
19	provided for in Chapter 2-D of Subtitle II of this Title for a local collector.
20	<u>B.</u> When the decision or judgment of the board which has become final
21	contains a finding that the taxpayer is entitled to receive a refund or credit of an
22	overpayment, the collector shall promptly enter the credit or make the refund, as the
23	case may be.
24	* * *
25	§1451. Waiver of penalties
26	Whenever Except as otherwise provided by law, whenever the state collector
27	determines to waive or remit the whole or any part of the penalty provided for failure
28	to file any return at the time it became due, the collector's determination thereon,
29	together with the taxpayer's affidavit stating the cause of his delay in filing, shall be
30	submitted to the board for review. If the board finds that the penalty may properly

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1	be waived or remitted pursuant to R.S. 47:1566 applicable law, it shall approve the
2	action of the collector. Otherwise the board shall reject the proposal to waive or
3	remit, and it shall then be mandatory upon the collector to assess and collect the
4	penalty. Nothing in this Section shall be construed to expand the jurisdiction of the
5	board to reconsider or review a waiver of penalties or any other discretionary
6	functions of a local collector.
7	Section 3. 49:968(B)(9) is hereby amended and reenacted to read as follows:
8	§968. Review of agency rules; fees
9	* * *
10	B. Prior to the adoption, amendment, or repeal of any rule or the adoption,
11	increasing, or decreasing of any fee, the agency shall submit a report relative to such
12	proposed rule change or fee adoption, increase, or decrease to the appropriate
13	standing committees of the legislature and the presiding officers of the respective
14	houses as provided in this Section. The report shall be so submitted on the same day
15	the notice of the intended action is submitted to the Louisiana Register for
16	publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to
17	each standing committee electronically if electronic means are available. If no
18	electronic means are available, the report shall be submitted at the committee's office
19	in the state capitol by certified mail with return receipt requested or by messenger
20	who shall provide a receipt for signature. The electronic receipt by the committee,
21	return receipt or the messenger's receipt shall be proof of receipt of the report by the
22	committee.
23	* * *
24	(9) The Department of Civil Service and all of the agencies made a part of
25	it shall submit the report to the House Committee on House and Governmental
26	Affairs and the Senate Committee on Senate and Governmental Affairs; however,
27	the Board of Tax Appeals shall submit the report to the House Committee on Ways
28	and Means and the Senate Committee on Revenue and Fiscal Affairs.
29	* * *

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Section 4. R.S. 36:4(B)(1)(p) and R.S. 47:337.51.1 and 337.101(A)(2)(c), (B), and
 (C) are hereby repealed.

3 Section 5. The members of the Board of Tax Appeals on the effective date of this 4 Act shall continue to serve in such capacity at the pleasure of the governor until the 5 appointments to fixed terms are made in accordance with the provisions of this Act.

Notwithstanding any provision of law to the contrary, a member of the board shall
be eligible for any assignment or appointment made pursuant to Article V, Section 5 of the
Constitution of Louisiana, and ad hoc service pursuant to that Section shall not render a
retired judge ineligible for an ad hoc appointment pursuant to R.S. 47:1417(C)(2).

10 If any member of the board serving on the effective date of this Act is appointed to 11 a fixed term pursuant to the provisions of this Act, his appointment shall not require 12 additional confirmation by the Senate if he was confirmed or reconfirmed prior to the 13 effective date of this Act. The additional compensation of the hearing judge of the Local Tax 14 Division shall initially be equivalent to the compensation provided by the state for a 15 part-time city court judge.

16 Section 6. Within thirty days of the effective date of this Act, anyone with a matter 17 pending before an arbitration panel or who has properly and timely mailed a request for 18 arbitration that is pending, pursuant to R.S. 47:337.51.1 as it existed prior to this Act, may 19 exercise any right granted to appeal to the Board of Tax Appeals for those matters within the 20 jurisdiction of the Board of Tax Appeals pursuant to this Act, or may pay under protest in 21 accordance with R.S. 47:337.63 and 337.64. An appeal may be taken from an arbitration 22 decision rendered prior to the effective date of this Act pursuant to R.S. 47:337.51.1(C) as 23 it existed prior to this Act. The suspension of any collection action by the collector and the 24 suspension of the running of prescription pursuant to R.S. 47:337.51.1(A)(2) as it existed 25 prior to this Act shall terminate on July 31, 2014.

Section 7. Upon the joint motion of all parties, a district court may transfer to the Board of Tax Appeals for adjudication, any matter pending before it on the effective date of this Act if the matter falls within the jurisdiction of the board following the effective date of this Act. For a period of one year following the effective date of this Act, a district court may transfer to the board any matter improperly filed in the district court which should have

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been filed with the board, and the matter shall be deemed to have been filed with the board 2 on the date of its filing in the district court.

- 3 Section 8. The one hundred eighty day deadline to appeal a local collector's inaction 4 on a refund claim to the Board of Tax Appeals pursuant to R.S. 47:337.81(A)(2) shall not 5 restrict any appeal filed with the Board of Tax Appeals prior to January 1, 2015.
- 6 Section 9. Any case filed with the Board of Tax Appeals against a local collector 7 prior to January 1, 2015, shall be heard in the board's Local Tax Division pursuant to the 8 provisions of R.S. 47:1403(B)(6)(a) unless the local collector in its initial answer to the 9 taxpayer's petition prays to have the case heard by the entire board.
- 10 Section 10. The nomination or nominations made pursuant to R.S. 47:1402(D) may 11 be transmitted to the governor, and any appointments pursuant to that Section may be made 12 at any time following the effective date of this Act.
- 13 Section 11. Any appeal from a judgment or decision of the board shall be deemed 14 to be governed by the provisions of Chapter 17 of Title 47 of the Louisiana Revised Statutes of 1950, as amended, as in effect on the date that the appeal is filed. 15
- 16 Section 12. This Act shall become effective upon signature by the governor or, if not 17 signed by the governor, upon expiration of the time for bills to become law without signature 18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. 19 Section 10 of this Act shall become operative immediately upon the effective date of this 20 Act, and Sections 1 through 9 of this Act shall become operative on July 1, 2014, if the Act 21 which originated as House Bill No. 798 of this 2014 Regular Session of the Legislature is 22 enacted.

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- 1 If vetoed by the governor and subsequently approved by the legislature, this Act shall
- 2 become effective on July 1, 2014, or on the day following such approval by the legislature,
- 3 whichever is later.

### SPEAKER OF THE HOUSE OF REPRESENTATIVES

### PRESIDENT OF THE SENATE

### GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_