

Regular Session, 2010

HOUSE BILL NO. 1457

BY REPRESENTATIVE MONICA

TAX/AD VALOREM TAX: Relative to payments in lieu of ad valorem tax paid by a lessee to a political subdivision, industrial development board, or certain public trust in relation to a securitized transaction

1 AN ACT

2 To amend and reenact R.S. 9:2347(M), 39:996, and 51:1160 and to enact R.S. 39:1002,
3 relative to payments in lieu of taxes, fees, and charges paid by a lessee to a political
4 subdivision, industrial development board, or certain public trust; to provide that
5 certain payments, fees, and charges paid by a lessee to a political subdivision,
6 industrial development board, or certain public trust under certain circumstances
7 shall be statutory impositions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:2347(M) is hereby amended and reenacted to read as follows:

10 §2347. Bonds of public trust

11 * * *

12 M. The property of any public trust, having as its beneficiary the parish of
13 Jefferson, which is authorized under its trust indenture to engage in or issue bonds
14 to finance projects for substantially all of the public purposes set forth in R.S.
15 9:2341(B)(1), acquired or held for one or more of said purposes, is hereby declared
16 to be public property used for essential public and governmental purposes.
17 Accordingly, such public trust, and all of its properties at any time owned by it and
18 the income therefrom and all bonds issued by it and the income therefrom, shall be
19 exempt from all taxes of the parish or municipality, the state, or any political

1 subdivision thereof or any other taxing body, provided, however, that such public
 2 trust may require the lessee of each of the projects of the public trust to pay annually
 3 to parish or municipal taxing authorities or to any other taxing body, through the
 4 normal collecting agency, a sum in lieu of ad valorem taxes to compensate such
 5 authorities for any services rendered by them to such projects, which sum shall not
 6 be in excess of the ad valorem taxes such lessee would have been obligated to pay
 7 to such authorities had it been the owner of such project during the period for which
 8 such payment is made. Such payments to be made in lieu of taxes together with any
 9 fees and charges of such public trust, to the extent in the aggregate they do not
 10 exceed the amount of taxes that would be paid if the lessee were the owner, shall
 11 constitute statutory impositions within the meaning of R.S. 47:2128. No provision
 12 of this Subsection shall become effective until approved by resolution of the
 13 Jefferson Parish Council.

14 Section 2. R.S. 39:996 is hereby amended and reenacted and R.S. 39:1002 is hereby
 15 enacted to read as follows:

16 §996. Lease, sublease, or sale of project prior to issuance of bonds; terms and
 17 conditions

18 Prior to the issuance of any bonds under this Part, the municipality shall
 19 lease, sublease, or agree to sell the project to a lessee, sublessee or purchaser under
 20 an agreement conditioned upon completion of the project and providing for payment
 21 to the municipality of such rentals or installment payments as will be sufficient (a)
 22 to pay the principal of and interest on the bond issued to finance the project, (b) build
 23 up and maintain any reserve deemed by the governing body to be advisable in
 24 connection therewith, and (c) unless the contract obligates the lessee, sublessee, or
 25 purchaser to pay for the maintenance and insurance of the project, to pay the cost of
 26 maintaining the project in good repair and keeping it properly insured. Such lease,
 27 sublease, or agreement of sale shall be made upon such other terms and conditions
 28 and for the time which may be determined by the municipality and may contain
 29 provisions authorizing the purchase of the entire leased project or any portion thereof

1 by the lessee or its assignee, where applicable, after all bonds issued thereunder have
 2 been paid in full, for such consideration and upon such terms and conditions as the
 3 municipality may determine. If title to the project is in the municipality, the
 4 municipal corporation may specifically require as a condition under the lease
 5 agreement, that the lessee of each of the projects of said municipal authority shall
 6 pay annually to the appropriate taxing authority, through the normal collecting
 7 agency, a sum in lieu of ad valorem taxes to compensate such authorities for any
 8 services rendered by them to such projects which sum shall not be in excess of the
 9 ad valorem taxes such lessee would have been obligated to pay to such authorities
 10 had it been the owner of such project during the period for which such payment is
 11 made. Such payments to be made in lieu of taxes together with any fees and charges
 12 of such public trust, to the extent in the aggregate they do not exceed the amount of
 13 taxes that would be paid if the lessee were the owner, shall constitute statutory
 14 impositions within the meaning of R.S. 47:2128.

* * *

16 1002. Payments Constitute Statutory Impositions

17 Payments in lieu of ad valorem tax, fees, and other charges to be paid by a
 18 lessee to a political subdivision, industrial development board, or a public trust
 19 whose property is exempt from ad valorem taxation pursuant to R.S. 9:2347(M),
 20 39:996, 51:1160, or any other provision of law authorizing fees and charges to be
 21 imposed on a lessee, up to the amount that would be due if the property were owned
 22 by a private entity and subject to ad valorem tax, shall constitute statutory
 23 impositions within the meaning of R.S. 47:2128. Provided that the local tax collector
 24 is notified in writing of any required payment in lieu of ad valorem tax, the tax
 25 collector shall collect such payments. Additionally, upon notice in writing from the
 26 political subdivision, industrial development board, or public trust whose property
 27 is exempt from ad valorem taxation that fees and charges constituting statutory
 28 impositions have not been paid, the tax collector shall collect the monies owed and
 29 enforce payment in the same manner as for ad valorem taxes. A pledge of the

1 payment of such amounts which constitute statutory impositions, if any, to secure
2 obligations of an industrial development board or political subdivision, shall
3 automatically be subject to a tax equivalent lien in the same manner as obligations
4 payable from ad valorem taxes.

5 Section 3. R.S. 51:1160 is hereby amended and reenacted to read as follows:

6 §1160. Exemption from taxation; classification of bonds

7 The corporation is hereby declared to be performing a public function on
8 behalf of the municipality or parish with respect to which the corporation is
9 organized and to be a public instrumentality of such municipality or parish.
10 Accordingly, the corporation and all properties at any time owned by it and the
11 income therefrom and all bonds issued by it and the income therefrom shall be
12 exempt from all taxation in the state of Louisiana; provided, however, that the
13 corporation may require the lessee of each of the projects of the corporation to pay
14 annually to parish or municipal taxing authorities, through the normal collecting
15 agency, a sum in lieu of ad valorem taxes to compensate such authorities for any
16 services rendered by them to such projects which sum shall not be in excess of the
17 ad valorem taxes such lessee would have been obligated to pay to such authorities
18 had it been the owner of such project during the period for which such payment is
19 made. Such payments to be made in lieu of taxes together with any fees and charges
20 of such public trust, to the extent in the aggregate they do not exceed the amount of
21 taxes that would be paid if the lessee were the owner, shall constitute statutory
22 impositions within the meaning of R.S. 47:2128. Also for the purposes of R.S.
23 51:704(2) and any amendment thereto or substitution therefor, bonds issued by the
24 corporation shall be determined to be securities issued by a public instrumentality
25 of a political subdivision of the state of Louisiana.

26 Section 4. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

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)]

Monica

HB No. 1457

Abstract: Deems certain payments in lieu of tax, fees, and charges paid by a lessee to a political subdivision, industrial board, and certain public trusts in relation to a securitized transaction to be statutory impositions

Present law authorizes political subdivisions and industrial development boards and public trusts whose property is exempt from ad valorem taxation to require lessees of certain projects involving securitized transactions to make payments to the local taxing authorities in lieu of any ad valorem taxes which would be owing on the leased property if it were privately owned, as well as pay other fees and charges related to such transactions..

Proposed law retains present law and deems payments made in lieu of taxes, and the fees and other charges imposed on a lessee in relation to a securitized transaction, to the extent that they do not exceed the amount of ad valorem taxes which would be owing on the property if it were privately owned, to be statutory impositions. Present law provides that the payment of statutory impositions is enforceable in the manner as ad valorem tax.

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

(Amends R.S. 9:2347(M), 39:990, and 51:1160; Adds R.S. 39:1002)

Summary of Amendments Adopted by House

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

1. Technical amendments.