

2018 Regular Session

HOUSE BILL NO. 254

BY REPRESENTATIVE CREWS

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

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

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

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

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

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

8 (3) Cooperative endeavor agreements may be entered into by the local
9 government subdivision or subdivisions or other taxing authorities hereinafter
10 referred to collectively as "taxing authority", that are parties to the cooperative
11 endeavor agreement, only after approval by the taxing authority evidenced by
12 resolution adopted by the taxing authority, for themselves and all districts and
13 subunits created by them respectively, or by resolution of any stand-alone taxing
14 authorities or by letter of approval of the sheriff approving the form and terms
15 thereof.

16 (4) A public hearing shall be conducted by any taxing authority prior to
17 adoption of any resolution approving a cooperative endeavor agreement. Notice of
18 the hearing and the proposed resolution shall be published in the official journal of
19 the applicable taxing authority at least once, no later than fourteen days prior to the
20 hearing, or if there is no official journal, in a newspaper having general circulation
21 in the taxing authority. The notice shall inform the public where a copy of the draft
22 cooperative endeavor agreement may be obtained and the time and place of the
23 hearing.

24 (5) Prior to any public hearing by any taxing authority and approval of a
25 cooperative endeavor agreement, the assessor for the parish where the property is
26 located shall be consulted in connection with the negotiation of the terms of the
27 cooperative endeavor agreement.

28 (6) A cooperative endeavor agreement shall only apply to those taxing
29 authorities who are parties to the agreement, and any non-participating taxing

1 authority shall not be bound by the agreement and their ad valorem taxes shall
2 continue to be billed and collected without regard to the provisions of this Section.

3 B. Any property subject to a cooperative endeavor agreement that requires
4 payments in lieu of ad valorem taxes shall be exempt from ad valorem taxation
5 during the term or terms of the cooperative endeavor agreement, and to the extent
6 provided for in the cooperative endeavor agreement, as authorized under Article VII,
7 Section 21(N) of the Constitution of Louisiana. All property exempted shall be listed
8 on the assessment rolls and such information shall be submitted to the Louisiana Tax
9 Commission.

10 C. To be eligible for a cooperative endeavor agreement that requires
11 payments in lieu of ad valorem taxes, the property shall not have been previously
12 exempt from ad valorem taxation pursuant to Article VII, Section 21(F) of the
13 Constitution of Louisiana. Notwithstanding the foregoing, an ad valorem taxing
14 authority may negotiate and enter into a cooperative endeavor agreement with a
15 property owner for a payment in lieu of ad valorem taxes during the first two years
16 of a contract of exemption allowed by Article VII, Section 21(F) of the Constitution
17 of Louisiana as set forth in this Section. A cooperative endeavor agreement
18 negotiated during the first two years of a contract of exemption shall require an
19 offset for the period of time during which the property was fully exempted from ad
20 valorem taxation.

21 D. Payment obligations, transferability, collection procedures which may
22 include the designation of a collector, and any other matters relating to the payment
23 and collection of payments made in lieu of ad valorem taxes shall be set forth in a
24 cooperative endeavor agreement authorized under this Section.

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

1 (1) The activities of the property owner in the state will generate an
 2 economic benefit to the state that exceeds twenty times the anticipated benefit to the
 3 property owner from the exemption provided by this Section. The benefit to the state
 4 shall be determined by the application of nationally recognized multipliers as
 5 appropriate and set forth in the Regional Input-Output Modeling System (RIMS II),
 6 or its successor publications, for the business operations of the applicant as published
 7 by Regional Economic Analysis Division BE-61, Bureau of Economic Analysis,
 8 U.S. Department of Commerce, Washington, D.C. 20230.

9 (2) The activities of the property owner shall create at least two hundred and
 10 fifty new jobs in the parish where the property is located. These jobs shall be in
 11 excess of the number of jobs that existed in Louisiana because of that property owner
 12 and all affiliated companies prior to the effective date of the cooperative endeavor
 13 agreement.

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

* * *

§9021. Findings, declarations of necessity, and purpose

It is hereby found and declared that:

* * *

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

5 * * *

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

12 §9022. Definitions

13 The following terms, whenever used or referred to in this Chapter, shall have
14 the following meaning unless a different meaning is otherwise clearly indicated in
15 the context:

16 (1) "Cooperative endeavors" means any form of economic development
17 assistance between and among the state, its local governmental subdivisions,
18 political corporations, public benefit corporations, the United States or its agencies,
19 or any public or private association, corporation, or individual. The term
20 "cooperative endeavors" shall include but not be limited to cooperative financing,
21 cooperative development, agreements providing for payments in lieu of taxes, or any
22 other form of cooperative economic development activity.

23 * * *

24 Section 2. This Act shall take effect and become operative if and when the proposed
25 amendment of Article VII, Section 21 of the Constitution of Louisiana contained in the Act
26 which originated as House Bill No. ____ of this 2018 Regular Session of the Legislature is
27 adopted at a statewide election and becomes effective.

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 254 Original

2018 Regular Session

Crews

Abstract: Authorizes any local taxing authority to enter into a cooperative endeavor agreement with a property owner that requires payments in lieu of ad valorem taxes imposed by that local taxing authority and establishes requirements concerning eligibility and approvals.

Proposed law authorizes any local governmental subdivision or other taxing authority (hereinafter "taxing authority") to enter into a cooperative endeavor agreement that provides for payments in lieu of ad valorem taxes imposed by that taxing authority, subject to the approval of the governing body of the taxing authority as evidenced by the adoption of a resolution for that purpose, or in the case of a sheriff or assessor, other official indicia of approval, for that purpose.

Proposed law requires that a public hearing be held prior to the adoption of a resolution for the approval of a cooperative endeavor agreement pursuant to proposed law. Public notice is required in the form of advertisement in the official journal of the taxing authority, or in the absence of an official journal, its local equivalent, at least once and no later than 14 days prior to the hearing. The public notice shall contain a copy of the draft cooperative endeavor agreement.

Proposed law requires that prior to the public hearing required by proposed law, the assessor is to be consulted in connection with the negotiation of the terms of the agreement.

Proposed law provides that any property subject to an agreement shall be exempt from ad valorem taxation during the term of the agreement to the extent as is provided for in the agreement.

Proposed law provides that a cooperative endeavor agreement shall have no application to any ad valorem tax of a taxing authority which is not a party to the agreement.

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

Proposed constitutional amendment further prohibits eligibility for this exemption for a manufacturing establishment that has had a contract for the industrial tax exemption, unless it is within the first two years of the industrial tax exemption contract.

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

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

Proposed law provides that administrative provisions concerning the collection of monies due under an agreement shall be the same as those for ad valorem taxes. Further, the validity of an agreement, as well as any transaction contemplated thereby, may be determined by the filing of a suit as provided in present law, in the district court having jurisdiction for any party to the agreement in the same manner and as though the agreement constitutes an issuance of bonds by the taxing authority.

Present law provides a definition for "cooperative endeavor agreement" as a form of economic development assistance between and among the state and local governments and other entities.

Proposed law retains present law and adds "agreements providing for payments in lieu of taxes" to the definition of "cooperative endeavor agreement".

Effective if and when House Bill No. _____ of this 2018 R.S. is enacted and becomes effective.

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