

2018 Regular Session

HOUSE BILL NO. 382

BY REPRESENTATIVE CONNICK

TAX/AD VALOREM TAX: Provides with respect to the development of appraisals and assessments of public service properties by the La. Tax Commission

1 AN ACT

2 To amend and reenact R.S. 47:1853 and 1855(E) and (G), and to enact R.S. 47:1852(F) and  
3 1855(I), relative to ad valorem property tax; to provide with respect to the appraisal  
4 of public service properties by the Louisiana Tax Commission; to require the  
5 development of an audit program; to require that certain methods and procedures be  
6 established by administrative rule; to require a report by the Legislative Auditor; and  
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:1853 and 1855(E) and (G) are hereby amended and reenacted and  
10 R.S. 47:1852(F) and 1855(I) are hereby enacted to read as follows:

11 §1852. Duty to file annual reports

12 \* \* \*

13 F. The Louisiana Tax Commission shall establish a risk-based audit program  
14 to verify the accuracy of self-reported information which is not known or cannot  
15 reasonably be assumed to have been audited by any other entity. Any such program  
16 shall adhere to standards established by the National Conference of Unit Value States  
17 to the degree practicable given the resources of the commission.

18 \* \* \*

1 §1853. Appraisal of public service properties

2 A. In accordance with the provisions of this Section and ~~Sections 1854 and~~  
3 ~~1855~~ R.S. 47:1854 and 1855, the Louisiana Tax Commission, hereinafter referred  
4 to in this Section as "commission", shall, on or before September first of each  
5 calendar year, appraise, for taxation, public service properties based upon each  
6 company's report, as defined in Section 1852(A) and such other information as may  
7 be available to the ~~Louisiana Tax Commission~~ commission. In the absence of a  
8 report, the ~~Louisiana Tax Commission~~ commission shall appraise the properties of  
9 any company failing to file such a report upon any information which the ~~Louisiana~~  
10 ~~Tax Commission~~ commission, in its best judgment, deems sufficient.

11 B.(1) In appraising public service properties, the ~~Louisiana Tax Commission~~  
12 commission shall:

13 (a) Employ all of the following nationally recognized techniques of  
14 appraisal, where applicable, to best determine fair market value:

15 (i) The market approach.

16 (ii) The cost approach.

17 (iii) The income approach, which includes an accounting for expected future  
18 income growth.

19 (b) Assign such weight to each approach as is appropriate to best determine  
20 fair market value.

21 (2)(a) However, all public service properties of the same nature and kind  
22 shall be appraised in the same manner. The appraised value of all lands owned by  
23 the company in this state shall be deducted from the total appraised value of the  
24 public service properties and shall be assessed by the ~~Louisiana Tax Commission~~  
25 commission and shown as a separate item on the tax roll.

26 (b) To facilitate adherence to a consistent equitable statewide appraisal  
27 process, the commission shall establish by administrative rule, minimum standards  
28 for procedures, methods, and formulas to be used in appraisals required under this

1        Section, which shall include guidance as to the apportionment of property as required  
2        under R.S. 47:1855.

3            ~~(3) Notwithstanding any other law to the contrary, for the years 1993 and~~  
4        ~~1994, the commission shall allocate the value of all inventories of natural gas owned~~  
5        ~~by a pipeline company in this state to each tax jurisdiction in which the inventories~~  
6        ~~are located according to its long-held administrative construction and interpretation~~  
7        ~~of the law. At the expiration of the time provided herein, the commission shall~~  
8        ~~develop a fair, equitable, and consistent system of valuation of such inventories for~~  
9        ~~all parishes affected by any revisions to ad valorem property tax procedures,~~  
10       ~~including but not limited to the parishes of Bienville, East Carroll, Lincoln, and West~~  
11       ~~Carroll.~~

12           (3) The commission shall maintain within its record for each appraisal, the  
13        rationale for the determination of the appraisal approach utilized in the valuation.

14           C. For purposes of accurate appraisal utilizing contemporary methods and  
15        information, the commission shall conduct a capitalization rate study at least once  
16        every three years, beginning in 2019, for each type of public service property for  
17        which it is responsible for appraisal pursuant to law and the Constitution of  
18        Louisiana. The studies for the various types of property shall reflect the unit  
19        valuation standards established by the National Conference of Unit Value States and  
20        shall set forth the specific capitalization rates to be utilized with the respective direct  
21        or yield capitalization methods as such may be employed in the appraisal of each  
22        type of property for a certain time period. The studies shall be available on the  
23        commission's website.

24           D. For purposes of annual appraisals for computation of assessments, the  
25        capitalization rates to be utilized with the respective direct or yield capitalization  
26        methods and the range of growth rates to be used in income approach valuations for  
27        the prospective year shall be established by rule promulgated in accordance with the  
28        Administrative Procedure Act at the same time that the commission issues rules for

1 minimum standards for assessments and appraisals as authorized under R.S.  
2 47:1837(D), or at any other time as may be determined by the commission.

3 E. The legislative auditor shall develop a schedule to conduct performance  
4 audits of the appraisal methods used by the commission in valuation of public  
5 service properties to provide a report to the legislature approximately every three  
6 years, beginning 2019 through 2030. An audit report may include recommendations  
7 as to methods and procedures utilized in the appraisal process, as well as conclusions  
8 as to the material correctness of capitalization rates derived from capitalization rate  
9 studies, and comparisons of this information over time. In addition to the Legislative  
10 Audit Advisory Committee, the performance audit shall be submitted to every  
11 member of the legislature, and to the legislative fiscal office.

12 ~~E.~~ F. All taxable immovable, major movable, and other movable public  
13 service properties of a company that is nonoperating or nonutility shall be appraised  
14 and assessed by the local tax assessor in the same manner and by the same standards  
15 as similar property in the parish in which it is located.

16 ~~D.~~ G. In no event, however, shall the ~~Louisiana Tax Commission~~ commission  
17 adopt schedules that reflect average life values of the property instead of appraising  
18 the individual companies.

19 ~~E.~~ H. The appraisal for the first year only shall be accomplished by the  
20 ~~Louisiana Tax Commission~~ commission through the use of an independent appraisal  
21 firm or firms qualified in the appraisal of public service properties.

22 \* \* \*

23 §1855. Allocation of assessed value

24 \* \* \*

25 E. Provided, however, that the Louisiana Tax Commission shall eliminate  
26 or adjust one or more of the above factors in any instance in which the use thereof  
27 does not accurately reflect the fair market value assignable to company property  
28 within this state. In such instance, the commission shall retain in the record of the

1 appraisal the analysis used to make the determination that one or more of the factors  
2 established in Subsection D where not utilized in the appraisal.

3 \* \* \*

4 G.~~(1)~~ Major movable or other movable property owned or used in Louisiana  
5 by a barge line ~~or~~ , towing company, or any other company that is not a resident of,  
6 nor domiciled in Louisiana, and having no agent or office in Louisiana shall be  
7 allocated for the purpose of ad valorem taxation to the local taxing unit in which the  
8 company has its primary business connections. ~~Any value not allocated to any other~~  
9 ~~parish shall be allocated to East Baton Rouge Parish.~~ based upon time spent in the  
10 jurisdiction. For this purpose, with respect to the property of each company, each  
11 assessor shall certify to the tax commission that, as of January first, any identifiable  
12 major movables that were present in their parish. Business connections shall include  
13 but shall not be limited to use of port facilities, repair facilities, storage facilities, and  
14 the like. The Louisiana Tax Commission may adopt rules and regulations to further  
15 define business connections, ~~and define primary business connections,~~ and methods  
16 and data to be used to determine time spent in a jurisdiction.

17 ~~(2) For those companies not provided for in Paragraph (1) of this Subsection,~~  
18 ~~major movable or other movable property owned or used in Louisiana by a company~~  
19 ~~not a resident of, nor domiciled in Louisiana, and having no agent or office in this~~  
20 ~~state shall be allocated to East Baton Rouge Parish; provided, that in the event an~~  
21 ~~assessor shall certify to the tax commission that, as of January first, certain~~  
22 ~~identifiable major movables were present in his parish, the tax commission shall~~  
23 ~~allocate the value of that major movable to the certifying parish.~~

24 \* \* \*

25 I. The method of allocation of the value of property of a company that  
26 provides and transmits electricity or natural gas utility service shall be uniform  
27 throughout the state.

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DIGEST

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

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HB 382 Original

2018 Regular Session

Connick

**Abstract:** Various revisions concerning the La. Tax Commission's appraisal of public service properties for purposes of property tax, including requirements for an audit program, apportionment of property among parishes, capitalization rates used in valuations, and record retention.

Present constitution and present law require that the La. Tax Commission (commission) assess public service properties for purposes of property tax. Public service properties include airlines, barge lines, electric companies, transportation companies, gas companies, insurance companies, and financial institutions.

Present law provides for procedures for the annual self-reporting of information by public service companies.

Proposed law retains present law and adds a requirement for the commission to establish a risk-based audit program to verify the accuracy of self-reported information.

Present law requires the commission to annually appraise each public service company by September 1<sup>st</sup>, based on the self-reported information. The commission uses the following techniques to appraise the fair market value of these properties: market approach, cost approach, and income approach. All public service properties of the same nature and kind shall be appraised in the same manner.

Proposed law retains present law and adds a requirement that use of the income approach shall include an accounting for expected future income growth. Further adds a requirement for the commission to establish by administrative rule, minimum standards for procedures, methods, and formulas to be used in appraisals. Proposed law requires that the commission maintain within its record for each appraisal, the rationale for the determination of the appraisal approach utilized in each valuation.

Proposed law requires that at least every three years, beginning in 2019, the commission conduct a capitalization rate study for each type of public service property for which it is responsible for appraisal. The commission is required to annually establish the capitalization rates and growth rates that it may use with the various capitalization rate approaches it may use prospectively in its appraisals at the same time as the commission issues rules for the minimum assessment standards for the assessors.

Present law establishes specific factors to be used in the allocation of assessed value of public service properties which involve property used both inside and outside of La. The commission has discretion to utilize specific factors as it deems appropriate.

Proposed law retains present law and requires that the commission retain in its record of each appraisal the analysis used to make a determination to use certain factors in favor of other factors.

Proposed law requires that the method of allocation of value of property of a company that provides and transmits electricity or natural gas utility service shall be uniform throughout the state.

Proposed law requires that the legislative auditor develop a schedule to conduct performance audits of the appraisal methods used by the commission in valuation of public service properties and to provide a report to the legislature approximately every three years, beginning 2019 through 2030.

(Amends R.S. 47:1853 and 1855(E) and (G); Adds R.S. 47:1852(F) and 1855(I))