

2017 Regular Session

HOUSE BILL NO. 445

BY REPRESENTATIVES SEABAUGH, BROADWATER, AND CARMODY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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 such cooperative endeavor agreement, with any of the following
17 persons as described in Paragraphs (1) and (2) of this Subsection:

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

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

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

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

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

23 (6) Such cooperative endeavor agreement shall only apply to those taxing
24 authorities who are parties thereto, and any non-participating taxing authority shall
25 not be bound thereby and their ad valorem taxes shall continue to be billed and
26 collected without regard to the provisions of this Section.

27 B. Any property subject to a cooperative endeavor agreement that requires
28 payments in lieu of ad valorem taxes shall be exempt from ad valorem taxation
29 during the term or terms of the cooperative endeavor agreement, and to the extent

1 provided for in such cooperative endeavor agreement, as authorized under Article
2 VII, Section 21(N). All property exempted shall be listed on the assessment rolls and
3 such information shall be submitted to the Louisiana Tax Commission.

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

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

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

24 (1) The activities of the property owner in the state of Louisiana will
25 generate an economic benefit to the state that exceeds twenty times the anticipated
26 benefit to the property owner from the exemption provided by this Section. Such
27 benefit to the state shall be determined by the application of nationally recognized
28 multipliers as appropriate and set forth in the Regional Input-Output Modeling
29 System (RIMS II), or its successor publications, for the business operations of the

1 applicant as published by Regional Economic Analysis Division BE-61, Bureau of
2 Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230.

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

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

19 * * *

20 §9021. Findings, declarations of necessity, and purpose

21 It is hereby found and declared that:

22 * * *

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

27 * * *

28 (10) It is in the best interest of the state of Louisiana and of its regions,
29 parishes, and municipalities to encourage, create, and support public-private

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, and 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 2017 R.S. is enacted and becomes effective.

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

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Limit 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 JLCB.
2. Prohibit a manufacturing establishment that has a contract for the industrial tax exemption to be eligible for the exemption, unless it is within the first two years of industrial tax exemption contract.
3. Limit the exemption to the amount agreed upon in the cooperative endeavor agreement.
4. Add a requirement that exempt properties be listed on the assessment rolls. Further require information concerning those properties be submitted to the La. Tax Commission.