

Regular Session, 2010

HOUSE BILL NO. 481

BY REPRESENTATIVE ROY

TAX/AD VALOREM TAX: Authorizes sheriffs and ex officio tax collectors to employ an agency to assist in the collection of delinquent ad valorem taxes and obligations and provides for the payment of such services on a fee basis

1 AN ACT

2 To amend and reenact R.S. 33:1423.1(B), (C), and (D), relative to collection of certain taxes
3 and other obligations by sheriffs and ex officio tax collectors; to authorize sheriffs
4 and ex officio tax collectors to employ certain parties to aid in the collection of
5 certain delinquent taxes and obligations; to provide for the payment for collection
6 services on a fee basis; to provide for the amount and payment of the fee; to provide
7 relative to requirements for employing certain parties to aid in the collection of
8 certain delinquent taxes and obligations; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:1423.1(B), (C), and (D) are hereby amended and reenacted to read
11 as follows:

12 §1423.1. Collection and disposition of bonds, fines, fees, licenses, taxes; acceptance
13 of credit card or electronic check payment; expenses of collection borne pro
14 rata by affected tax recipient bodies

15 * * *

16 B. In addition to any other authority provided by law, sheriffs and ex officio
17 tax collectors of the various parishes, including the chief administrative officer for
18 the city of New Orleans may employ private ~~counsel~~ attorney or an agency to assist
19 in the collection of any due delinquent ad valorem taxes, any penalties or interest

1 thereon, and any other payment which may be legally collected by a sheriff or tax
2 collector or director of finance for the city of New Orleans.

3 C. The sheriff or ex officio tax collector or director of finance for the city of
4 New Orleans ~~shall~~ may enter into a contract with such private attorney or agency.
5 ~~which shall provide the hourly rate of payment for services. The hourly rate shall not~~
6 ~~exceed the attorney general's fee schedule~~ The contract shall include the method of
7 compensation to be paid, which shall be either by an hourly rate for services or a
8 specific fee. The hourly rate shall not exceed the attorney general's fee schedule. If
9 the method of compensation is a fee, it shall not exceed ten percent of the amount
10 collected, which percentage shall be calculated on the total amount collected
11 inclusive of any monies due as a result of a fine, bond, tax, license fee, or any other
12 payment to be collected. The compensation due to the private attorney or agency
13 shall be payable by the taxpayer to the tax recipient body. The sheriff or ex officio
14 tax collector or director of finance for the city of New Orleans shall obtain approval
15 of the hourly rate or fee to be paid the private attorney or agency by the tax recipient
16 bodies, which are owed in the aggregate, at least seventy-five percent of the revenues
17 to be collected prior to contracting with the attorney or agency. The sheriff or ex
18 officio tax collector or chief administrative officer shall give advance notice to the
19 tax recipient bodies prior to employing ~~counsel~~ an attorney or agency and shall
20 provide an estimate of anticipated expenses. The affected tax recipient bodies shall
21 each contribute its pro rata or equitable share of the fees and expenses of the attorney
22 or agency. The sheriff or ex officio tax collector or director of finance for the city
23 of New Orleans shall furnish an itemized expense voucher to all affected tax
24 recipient bodies, which shall be due and payable upon receipt by the tax recipient
25 body.

26 D. If as a result of any judgment or settlement, monies attributable to
27 attorney or agency fees and expenses are paid to the sheriff or ex officio tax collector
28 or director of finance for the city of New Orleans in an amount in excess of the
29 amount owed to the attorney or agency under contract, the sheriff or ex officio tax

1 collector or director of finance for the city of New Orleans shall rebate such excess
2 to the affected tax recipient bodies based upon their pro rata payments for the cost
3 of the attorney or agency.

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)]

Roy

HB No. 481

Abstract: Authorizes sheriffs and ex officio tax collectors to employ an agency to assist in the collection of delinquent ad valorem taxes and obligations and authorizes the payment for collection services on a fee basis as well as an hourly rate.

Present law authorizes sheriffs and ex officio tax collectors to employ private counsel to assist in the collection of delinquent ad valorem taxes, penalties or interest, and any other payment which may be legally collected by a sheriff or tax collector.

Present law requires the sheriff or tax collector to enter into a contract with a private attorney for the collection of delinquent taxes and obligations which shall provide the hourly rate of payment for services which shall not exceed the attorney general's fee schedule for contract counsel.

Proposed law retains present law but adds the authority for sheriffs and ex officio tax collectors to employ an agency to assist in the collection of delinquent ad valorem taxes and obligations. Proposed law changes present law to permit a sheriff or ex officio tax collector to enter into a contract with an attorney or agency relative to hourly rate of pay or fees rather than requiring them to do so.

Proposed law further provides that the contract may provide for a fee not to exceed 10% of the amount collected for such services, inclusive of any monies due as a result of a fine, bond, tax, license fee, or any other payment to be collected. Further provides that the compensation due to the private attorney or agency shall be payable by the tax payer to the tax recipient body.

Present law requires the sheriff or ex officio tax collector to obtain approval of the hourly rate to be paid the attorney by the tax recipient bodies, which are owed in the aggregate, at least 75% of the revenues to be collected prior to contracting with the attorney. The sheriff or ex officio tax collector shall give notice to the tax recipient bodies prior to employing an attorney and shall provide an estimate of anticipated expenses. Requires affected tax recipient bodies to contribute their pro rata or equitable share of the fees and expenses of the attorney.

Proposed law retains present law but clarifies that the provisions of present law also apply to employment of agencies as well as attorneys, and fees paid for collection services as well as payment by hourly rate.

Proposed law provides that if as a result of any judgment or settlement, monies attributable to attorney fees and expenses are paid to the sheriff or ex officio tax collector in an amount in excess of the amount owed to the attorney under contract, the sheriff or ex officio tax collector shall rebate such excess to the affected tax recipient bodies based upon their pro rata payments for the cost of the attorney.

Proposed law retains present law but clarifies that the provisions of present law also apply to excess fees of an agency.

(Amends R.S. 33:1423.1(B), (C), and (D))

Summary of Amendments Adopted by House

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

1. Changed from mandatory to discretionary, the authority of a sheriff or ex officio tax collector to enter into a contract with an attorney or agency to assist in the collection of delinquent ad valorem taxes.

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Clarified that the two methods of paying an attorney or agency for collection services are either by an hourly rate or a specific fee. Hourly rates shall not exceed the attorney general's fee schedule.
2. Added a limitation to prohibit a fee from exceeding 10% of the amount collected inclusive of other monies owed for a fine, bond, tax, license fee, or other monies to be collected.
3. Added provision that compensation paid to an attorney or agency shall be paid by the taxpayer to the tax recipient body.
4. Clarified that provisions of present law, relative to approval of the hourly rate paid an attorney, advance notice to tax recipient bodies of the sheriff's intent to employ an attorney, and requirement that all affected tax recipient bodies contribute their pro rata share of the fees and expenses also apply to fees and to the employment of an agency.
5. Clarified that provisions of present law, relative to payments of attorney fees as a result of a judgement or settlement in excess of the amount owed for collection services under the contract also apply to excess fees of an agency.