2019 Regular Session

ACT No. 365

HOUSE BILL NO. 583

BY REPRESENTATIVE DWIGHT

1	AN ACT
2	To amend and reenact R.S. 47:337.45(A)(3), 337.63(C), 337.97, 1407(3), 1418(4)(b),
3	1435(A), (C), and (D), 1561(A)(3), and 1576(D), to enact R.S. 47:1407(6) and
4	1431(D), and to repeal R.S. 47:1432(B), relative to the Board of Tax Appeals; to
5	provide for the jurisdiction of the Board of Tax Appeals; to extend the jurisdiction
6	over matters of constitutionality; to provide for the process of appeals from the
7	decisions of the board; to provide relative to remedies for the collection of taxes; to
8	provide for effectiveness; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 47:337.45(A)(3), 337.63(C), 337.97, 1407(3), 1418(4)(b), 1435(A),
11	(C), and (D), 1561(A)(3), and 1576(D) are hereby amended and reenacted and R.S.
12	47:1407(6) and 1431(D) are hereby enacted to read as follows:
13	§337.45. Alternative remedies for the collection of taxes
14	A. In addition to following any of the special remedies provided in this
15	Chapter, the collector may, in his discretion, proceed to enforce the collection of any
16	taxes due under the local ordinance by means of any of the following alternative
17	remedies or procedures:
18	* * *

HB NO. 583 ENROLLED

1	(3) Ordinary suit under the provisions of the general laws regulating actions
2	for the enforcement of obligations before the Board of Tax Appeals or any court of
3	competent jurisdiction.
4	* * *
5	§337.63. Remittance of tax under protest; suits to recover
6	* * *
7	C. This Section shall be construed to provide a legal remedy in the Board of
8	<u>Tax Appeals or</u> the state courts in case such taxes are claimed to be <u>unconstitutional</u>
9	under any provision of the United States Constitution or Constitution of Louisiana,
10	including an unlawful burden upon interstate commerce, or the collection thereof,
11	in violation of any Act of Congress or the United States Constitution, or the
12	Constitution of Louisiana.
13	* * *
14	§337.97. Judicial review of validity or applicability of rules
15	The validity or applicability of a rule may be determined in an action for
16	declaratory judgment in the Board of Tax Appeals or a court of competent
17	jurisdiction. The board shall be made a party to the action. The Board of Tax
18	Appeals or court shall declare the rule invalid or inapplicable if it finds that it
19	violates constitutional provisions or exceeds the statutory authority of the board or
20	was adopted without substantial compliance with required rulemaking procedures.
21	* * *
22	§1407. Jurisdiction of the board
23	The jurisdiction of the board shall extend to the following:
24	* * *
25	(3) All matters related to state or local taxes or fees, or other jurisdiction
26	otherwise provided by law, including rules to seek uniformity of interpretation of
27	common sales and use tax law or local sales and use tax law, as provided in R.S.
28	47:337.101(A)(2), and petitions concerning the validity of a collector's rules,
29	regulations, or private letter rulings, as provided in R.S. 47:337.102.
30	* * *

HB NO. 583 ENROLLED

1	(6) A petition for declaratory judgment or other action related to the
2	constitutionality of a law or ordinance or validity of a regulation concerning any
3	matter relating to any state or local tax or fee excluding those tax matters within the
4	jurisdiction of the Louisiana Tax Commission.
5	* * *
6	§1418. Definitions
7	For the purposes of this Chapter, except where the context requires otherwise,
8	the words and expressions defined in this Section shall have the following meanings:
9	* * *
10	(4) "Local collector" means any of the following:
11	* * *
12	(b) The individual or entity responsible for collecting occupational license
13	tax or occupancy tax, or other collector responsible for collecting local taxes or fees,
14	where an action is appealable to the board excluding those tax matters within the
15	jurisdiction of the Louisiana Tax Commission.
16	* * *
17	§1431. Taxpayer's petition
18	* * *
19	D.(1) In compliance with the provisions of Chapter 2 of Title VI of Book II
20	of the Louisiana Code of Civil Procedure or other applicable law, an aggrieved party
21	may petition the board concerning a matter authorized pursuant to R.S. 47:1407(6).
22	(2) No aggrieved party shall petition the board pursuant to the provisions of
23	Paragraph (1) of this Subsection to declare a law unconstitutional on the basis of its
24	failure to meet the constitutional requirements for the passage of laws by the
25	legislature.
26	* * *
27	§1435. Jurisdiction of courts to review decisions of the board
28	A. Except as provided in Article V, Section 5(D) of the Constitution of
29	Louisiana, the The courts of appeal shall have exclusive jurisdiction to review the

HB NO. 583 ENROLLED

1	decisions or judgments of the board, and the judgment of any such court shall be
2	subject to further review in accordance with the law relating to civil matters.
3	* * *
4	C. Upon such review, the courts shall have the power to affirm or, if the
5	decision or judgment of the board is not in accordance with law or is manifestly
6	erroneous on the facts considering the record as a whole, to modify, or to reverse the
7	decision or judgment of the board, with or without remanding the case for further
8	proceedings. An appellate court may also remand a case with an order that it be
9	immediately transferred to the district court pursuant to R.S. 47:1432(B).
10	D. Except as otherwise specifically provided for by local rule of a court of
11	appeal, when If a judgment of the board is to be modified or reversed and one court
12	of appeal judge dissents, the case shall be reargued before a panel of at least five
13	judges prior to rendition of judgment, and a majority shall concur to render
14	judgment.
15	* * *
16	§1561. Alternative remedies for the collection of taxes
17	A. In addition to following any of the special remedies provided in the
18	various chapters of this Subtitle, the collector may, in his discretion, proceed to
19	enforce the collection of any taxes due under this Subtitle by means of any of the
20	following alternative remedies or procedures:
21	* * *
22	(3) Ordinary suit under the provisions of the general laws regulating actions
23	for the enforcement of obligations before the Board of Tax Appeals or any court of
24	competent jurisdiction.
25	* * *
26	§1576. Remittance of tax under protest; suits to recover
27	* * *
28	D. This Section shall be construed to provide a legal remedy in the Board of
29	Tax Appeals or the state courts in case such taxes are claimed to be unconstitutional
30	under any provision of the United States Constitution or Constitution of Louisiana,

1 including an unlawful burden upon interstate commerce, or the collection thereof, 2 in violation of any Act of Congress or the United States Constitution, or the Constitution of Louisiana. 3 4 5 Section 3. R.S. 47:1432(B) is hereby repealed in its entirety. 6 Section 4. This Act shall take effect and become operative if and when the proposed 7 addition of Article V, Section 35 of the Constitution of Louisiana contained in the Act which 8 originated as House Bill No. 428 of this 2019 Regular Session of the Legislature is adopted 9 at a statewide election and becomes effective. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

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HB NO. 583

APPROVED: _____