

2015 Regular Session

SENATE BILL NO. 177

BY SENATOR ADLEY

TAX/AD VALOREM. Constitutional amendment to add certain property tax exemptions and reductions and to provide with respect to tax credits associated with them; to dedicate the net state revenue increase to a Tax Credit Reduction Fund and provide for allocations from the fund; and to provide for appropriations to local tax authorities. (2/3-CA 13sl(A))

1 A JOINT RESOLUTION

2 Proposing to amend Article VII, Section 18(B) and (D), and to add Article VII, Section  
3 10.15, Section 21(C)(20) and (21), and Section 21.1 of the Constitution of Louisiana,  
4 relative to ad valorem property tax exemptions and reductions; to provide for an  
5 exemption for certain inventory and natural gas and vessels; to provide for the  
6 valuation and assessment of telephone company property; to provide with respect to  
7 the adjustment of ad valorem millages because of the implementation of the  
8 amendment; to provide for annual effectiveness of the exemptions and reductions;  
9 and to specify an election for submission of the proposition to electors and provide  
10 a ballot proposition.

11 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
12 elected to each house concurring, that only if the Legislative Auditor provides written  
13 certification to the Secretary of State that funds have been appropriated by the legislature in  
14 a law which has become effective which, upon receipt by an ad valorem property taxing  
15 authority, will be sufficient to offset the decrease in the total amount of ad valorem taxes  
16 collected by such taxing authority because of the implementation of the provisions of this  
17 proposed amendment, then there shall be submitted to the electors of the state, for their

1 approval or rejection in the manner provided by law, a proposal to amend Article VII,  
2 Section 18(B) and (D), and to add Article VII, Section 10.15, Section 21(C)(20) and (21),  
3 and Section 21.1 of the Constitution of Louisiana, to read as follows:

4 **§10.15. Tax Credit Reduction Fund**

5 **Section 10.15.A. Each fiscal year beginning with Fiscal Year 2015-2016,**  
6 **the Revenue Estimating Conference shall determine the net increase in taxes**  
7 **collected during each fiscal year because of the effect on income and franchise**  
8 **tax credits provided by law on the initial effective date of this Section of the**  
9 **implementation of the ad valorem property tax exemptions provided for in**  
10 **Section 23(C)(20) and (21) of this Article and the reduction of the percentage of**  
11 **the fair market value of telephone company properties subject to assessment as**  
12 **provided for in Section (B)(5) of this Article. Such determination shall be**  
13 **approved by the Joint Legislative Committee on the Budget.**

14 **B.(1) After compliance with the requirements of Section 9(B) of this**  
15 **Article relative to the Bond Security and Redemption Fund and prior to any**  
16 **money being placed into the general fund or any other fund, an amount equal**  
17 **to that determined by the Revenue Estimating Conference and approved by the**  
18 **Joint Legislative Committee on the Budget shall be credited by the treasurer**  
19 **each fiscal year to a special fund hereby created in the state treasury to be**  
20 **known as the Tax Credit Reduction Fund. The money in the fund shall be used**  
21 **solely as provided for in Paragraph (C) of this Section.**

22 **(2)(a) The money in the fund shall be invested by the treasurer in the**  
23 **same manner as money in the state general fund and interest earned on the**  
24 **investment of the money shall be credited to the fund after compliance with the**  
25 **requirements of Section 9(B) of this Article relative to the Bond Security and**  
26 **Redemption Fund.**

27 **(b) All unexpended and unencumbered money in the fund at the end of**  
28 **the year shall remain in the fund.**

29 **C. The money in the Tax Credit Reduction Fund shall be used solely as**

1 follows in the following priorities:

2 First, the money in the fund shall be appropriated by the legislature each  
 3 fiscal year to fund the Minimum Foundation Program in an amount sufficient  
 4 to ensure that each city and parish school system receives its proportionate  
 5 amount of funding allocated to the system as provided in the Minimum  
 6 Foundation Program Formula approved by the legislature during the 2015  
 7 Regular Session of the Legislature, or the most recently approved formula prior  
 8 to such Session, including the combined state and local contributions. It is the  
 9 intention of this provision that no city and parish school system shall have its  
 10 Minimum Foundation Program Formula allocation reduced as a result of the  
 11 effect of the implementation of the ad valorem property tax exemptions and  
 12 reductions referenced in Paragraph (A) of this Section on such city and parish  
 13 school system's contribution.

14 Second, the balance of money remaining in the fund after the allocation  
 15 provided in the first Subparagraph of this Paragraph shall be appropriated by  
 16 the legislature for any purposes as determined by the legislature.

17 \* \* \*

18 §18. Ad Valorem Taxes

19 Section 18. \* \* \*

20 (B) Classification. The classifications of property subject to ad valorem  
 21 taxation and the percentage of fair market value applicable to each classification for  
 22 the purpose of determining assessed valuation are as follows:

Classifications	Percentages
1. Land	10%
2. Improvements for residential purposes	10%
3. Electric cooperative properties, excluding land	15%
4. Public service properties, excluding land	25%
5. <b><u>Telephone company properties, excluding land</u></b>	<b><u>15%</u></b>
6. Other property	15%

1           The legislature may enact laws defining electric cooperative properties and  
 2           public service properties. "Telephone company property" shall mean the  
 3           property owned or used in the state in the operation of a company primarily  
 4           engaged in the business of transmitting telephone messages within, through,  
 5           into, or from this state; however, the term "telephone company property" shall  
 6           not include the property of any company that:

7                   (1) Primarily is engaged in the business of owning, operating, or  
 8                   managing a radio common carrier as shall be defined by law, or a public "for  
 9                   hire" radio service.

10                   (2) Primarily is engaged in the business of providing a service of radio  
 11                   communications between mobile and base stations, between mobile and land  
 12                   stations, or between two or more mobile stations, including but not limited to  
 13                   any cellular service, paging service, or other forms of mobile or portable  
 14                   communications service.

15                                   \*           \*           \*

16           (D) Valuation. Each assessor shall determine the fair market value of all  
 17           property subject to taxation within his respective parish or district except public  
 18           service properties **and telephone company properties**, which shall be valued at fair  
 19           market value by the Louisiana Tax Commission or its successor. Each assessor shall  
 20           determine the use value of property which is to be so assessed under the provisions  
 21           of Paragraph (C). Fair market value and use value of property shall be determined  
 22           in accordance with criteria which shall be established by law and which shall apply  
 23           uniformly throughout the state.

24                                   \*           \*           \*

25           §21. Other Property Exemptions

26                   Section 21. In addition to the homestead exemption provided for in Section  
 27           20 of this Article, the following property and no other shall be exempt from ad  
 28           valorem taxation:

29                                   \*           \*           \*

1 (C) \* \* \*

2 (20) Inventory held by manufacturers, distributors, and retailers, and  
3 natural gas held, used, or consumed in providing natural gas storage services  
4 or operating natural gas storage facilities.

5 (21) Vessels, including ships, oceangoing tugs, towboats, and barges,  
6 principally operated in Outer Continental Shelf Lands Act Waters. "Outer  
7 Continental Shelf Lands Act Waters" shall mean all waters above all  
8 submerged land seaward and outside of the area of state submerged lands  
9 beneath navigable waters as defined in the Submerged Lands Act, 43 U.S.C.  
10 §1301 et seq. The term shall further mean all waters above Outer Continental  
11 Shelf submerged lands to which the Outer Continental Shelf Lands Act of Title  
12 43 U.S.C. §1331 et seq. applies.

13 \* \* \*

14 §21.1. Effectiveness of certain exemptions and assessment reductions

15 The exemptions provided for in Section 21(C)(20) and (21) of this Article  
16 and the valuation of telephone company properties at fifteen percent of fair  
17 market value provided for in Section 18(B)(5) of this Article shall only be  
18 effective for a Tax Year in which the Legislative Auditor provides written  
19 certification to the Louisiana Tax Commission that funds have been  
20 appropriated by the legislature in a law which has become effective which, upon  
21 receipt by an ad valorem property taxing authority, will be sufficient to offset  
22 the decrease in the total amount of ad valorem taxes collected by such taxing  
23 authority because of the operation of those provisions. The appropriation shall  
24 be a direct appropriation to state aid to local government for which local  
25 government determines the expenditure. The provisions of Article VII, Section  
26 10(F)(1) and (2) shall not be applicable to nor affect such appropriations.

27 Section 2. Be it further resolved that the provisions of this proposed amendment shall  
28 apply retroactively to the Tax Year 2015 so that, notwithstanding any other provision of this  
29 constitution or other law to the contrary requiring the assessment and collection of ad

1 valorem taxes by an earlier date, the Louisiana Tax Commission and assessors shall exempt  
2 or reassess property according to the terms of this proposed amendment and any ad valorem  
3 property taxes and associated charges paid for such tax year not in accordance with the terms  
4 of this proposed amendment shall be refunded.

5 Section 3. Be it further resolved that a decrease in the total amount of ad valorem  
6 taxes collected by a taxing authority because of the implementation of the provisions of this  
7 amendment shall not authorize the taxing authority to adjust its millages as provided for in  
8 Article VII, Section 23 of the Constitution of Louisiana.

9 Section 4. Be it further resolved that, providing for a matter related to the ad valorem  
10 property tax exemptions and reductions provided for in this proposed amendment,  
11 notwithstanding Article III, Section 16(B) or any other provision of this constitution or any  
12 other law to the contrary, any claim for an income tax or corporate franchise tax credit for  
13 ad valorem property taxes paid on the property provided for in this proposed amendment  
14 shall not be allowed in Fiscal Year 2015-2016. One-tenth of each such tax credit shall be  
15 allowed to a claimant each Fiscal Year thereafter, beginning in Fiscal Year 2016-2017.

16 Section 5. Be it further resolved that only if the Legislative Auditor provides written  
17 certification to the Secretary of State that funds have been appropriated by the legislature in  
18 a law which has become effective which, upon receipt by an ad valorem property taxing  
19 authority, will be sufficient to offset the decrease in the total amount of ad valorem taxes  
20 collected by such taxing authority because of the implementation of the provisions of this  
21 proposed amendment, then this proposed amendment shall be submitted to the electors of  
22 the state of Louisiana at the statewide election to be held on October 24, 2015.

23 Section 6. Be it further resolved that on the official ballot to be used at said election  
24 there shall be printed a proposition, upon which the electors of the state shall be permitted  
25 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as  
26 follows:

27 Do you support an amendment to exempt from property tax the inventory  
28 held by manufacturers, distributors, and retailers, natural gas held, used, or  
29 consumed in providing natural gas storage services or operating natural gas

1 storage facilities, and vessels principally operated in Outer Continental Shelf  
 2 (OCS) waters; to provide that telephone company properties shall be assessed  
 3 at 15% of fair market value; to provide that the exemption and reduction are  
 4 applicable only in tax years in which the Legislative Auditor provides written  
 5 certification to the Louisiana Tax Commission that funds have been  
 6 appropriated by the legislature in a law which has become effective which,  
 7 upon receipt by an ad valorem property taxing authority, will be sufficient to  
 8 offset the decrease in the total amount of ad valorem taxes collected by such  
 9 taxing authority because of the operation of these provisions; to provide that  
 10 ad valorem tax millages shall not be raised because of the implementation of  
 11 the amendment and that any claim for a tax credit for taxes paid on such  
 12 property shall not be allowed in Fiscal Year 2015-2016, but one-tenth shall  
 13 be allowed each Fiscal Year thereafter; and finally to provide that the net  
 14 increase in state taxes collected as a result of such exemptions and reductions  
 15 shall be deposited in a Tax Credit Reduction Fund, a portion to be used to  
 16 ensure that no school system shall have its Minimum Foundation Formula  
 17 allocation reduced as a result of the effect of such exemptions and  
 18 reductions?  
 19 (Amends Article VII, Section 18(B) and (D); adds Article VII, Section 10.15,  
 20 Section 21(C)(20) and (21), and Section 21.1)

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Riley Boudreaux.

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SB 177 Engrossed	DIGEST 2015 Regular Session	Adley
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Proposed constitutional amendment provides that any claim for an income tax or corporate franchise tax credit for ad valorem property taxes paid on the property provided for in the proposed constitutional amendment shall not be allowed in Fiscal Year 2015-2016. One-tenth of each such tax credit is allowed to a claimant each Fiscal Year thereafter, beginning in Fiscal Year 2016-2017.

Proposed constitutional amendment requires the Revenue Estimating Conference, each fiscal year beginning with FY 2015-2016, to determine the net increase in taxes collected during each fiscal year because of the effect on income and franchise tax credits of the ad valorem property tax exemptions and reductions set forth below provided in the proposed constitutional amendment. Such determination must be approved by the Joint Legislative

Committee on the Budget. That amount is credited by the Treasurer to a special fund created in the state treasury to be known as the Tax Credit Reduction Fund. The money in the Tax Credit Reduction Fund must be used solely as follows in the following priorities:

First, the money in the fund shall be appropriated by the legislature each fiscal year to fund the Minimum Foundation Program [MFP] in an amount sufficient to ensure that each city and parish school system receives its proportionate amount of funding allocated to the system as provided in the MFP Formula approved by the legislature in the 2015 Regular Session, or the most recently approved formula prior to such Session, including the combined state and local contributions. The proposed constitutional amendment states that its intention is that no city and parish school system shall have its MFP Formula allocation reduced as a result of the effect of the implementation of the proposed constitutional amendment on such city and parish school system's contribution.

Second, the balance of money remaining in the fund must be appropriated by the legislature for any purposes as determined by the legislature.

The money in the fund is to be invested by the Treasurer in the same manner as money in the state general fund and interest earned on the investment of the money is credited to the fund. All unexpended and unencumbered money in the fund at the end of the year is to remain in the fund.

Present law allows a refundable income or corporate franchise tax credit for ad valorem property taxes paid on:

- (1) Inventory held by manufacturers, distributors, and retailers, and on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.
- (2) Vessels, including ships, oceangoing tugs, towboats, and barges, principally operated in Outer Continental Shelf Lands Act Waters.

Proposed constitutional amendment exempts the same property from ad valorem property taxes.

Present constitution requires property classified as "public service properties, excluding land" to be assessed by the Louisiana Tax Commission at 25% of fair market value and authorizes the legislature to enact laws defining "public service properties".

Present law defines one of the "public service properties" as the property owned or used but not otherwise assessed in the state in the operations of a "telephone company". "Telephone company" is defined as a company primarily engaged in the business of transmitting telephone messages within, through, into, or from this state, but excludes from the term any company that:

- (1) Primarily is engaged in the business of owning, operating, or managing a radio common carrier, as defined in present law, or a public "for hire" radio service.
- (2) Primarily is engaged in the business of providing a service of radio communications between mobile and base stations, between mobile and land stations, or between two or more mobile stations, including but not limited to any cellular service, paging service, or other forms of mobile or portable communications service.

Present law allows a refundable income or corporate franchise tax credit for 40% of the aggregate ad valorem property taxes paid by a "telephone company" as defined in present law on the telephone company's "public service properties" as defined in present law which are assessed by the Louisiana Tax Commission at 25% of fair market value pursuant to present law.



Proposed constitutional amendment requires property classified as "telephone company properties, excluding land" to be assessed by the Louisiana Tax Commission at 15% of fair market value. Defines "telephone company property" as the property owned or used but not otherwise assessed in the state in the operation of a company defined using the same language in the proposed constitutional amendment as "telephone company" is defined in present law.

Proposed constitutional amendment requires retroactive application to Tax Year 2015 so that the Louisiana Tax Commission and assessors must exempt or reassess property according to the terms of the proposed constitutional amendment and any ad valorem property taxes and associated charges paid for such tax year not in accordance with the terms of the proposed constitutional amendment must be refunded.

Present constitution requires all property subject to ad valorem property taxation to be reappraised and valued at intervals of not more than four years.

Present constitution provides that the total amount of ad valorem property taxes collected by any taxing authority in the year in which property is reappraised and revalued shall not be increased or decreased because of a reappraisal or valuation above or below the total amount of ad valorem taxes collected by that taxing authority in the year preceding implementation of the reappraisal and valuation.

Proposed constitutional amendment provides that a decrease in the total amount of ad valorem property taxes collected by a taxing authority because of the implementation of the proposed constitutional amendment shall not authorize the tax authority to adjust its millages as provided in the present constitution as set forth above.

Specifies submission of the amendment to the voters at the statewide election to be held on October 24, 2015, only if the Legislative Auditor provides written certification to the Secretary of State that funds have been appropriated by the legislature in a law which has become effective which, upon receipt by an ad valorem property taxing authority, will be sufficient to offset the decrease in the total amount of ad valorem taxes collected by such taxing authority because of the implementation of the provisions of this proposed amendment.

Similarly, the proposed constitutional amendment provides that it shall only be effective for a Tax Year in which the Legislative Auditor makes the same written certification described above, and further, that the appropriation must be a direct appropriation "to state aid" to local government for which local government determines the expenditure. The provisions of Const. Art. VII, Sec. 10(F)(1) and (2) (concerning methods for adjusting appropriations in order to eliminate a projected deficit) are not applicable to nor do they affect such appropriations

(Amends Const. Art. VII, Sec. 18(B) and (D); adds Const. Art. VII, Sec. 10.15, Sec. 21(C)(20) and (21), and Sec. 21.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Expanded the Original Bill, which exempted only inventory held by manufacturers, distributors, and retailers, and natural gas, to include all of the other matters set forth in the Digest above.