
DIGEST

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HB 601 Original

2017 Regular Session

Stokes

Abstract: Establishes the La. Uniform Local Sales Tax Board and the La. Sales and Use Tax Commission for Remote Sellers for uniformity and efficiency of collection and administration of sales and use taxes.

Present law provides that a single transaction shall only be taxed once and provides for a process for requesting a refund in the event that taxes collected were remitted to the wrong taxing jurisdiction.

Proposed law creates an optional concursus process in which a dealer or taxpayer can remit the amount of tax to the Local Tax Division of the Board of Tax Appeals for deposit into their escrow account and request a determination by the board of the proper taxing jurisdiction.

Present constitution [Const. Art. VI, Sec. 29(A)] authorizes the governing authority of any parish, municipality, or school board to levy and collect a sales and use tax.

Present constitution [Const. Art. VII, Sec. 3(B)] requires sales and use taxes levied by political subdivisions to be collected by a single collector for each parish and authorizes the legislature, to establish a method of providing for such a single collector or a central collection commission in each parish.

Proposed law creates the Louisiana Uniform Local Sales Tax Board and authorizes it to do the following:

- (1) Support and advise local tax collectors concerning collection and administration of local taxes.
- (2) Promulgate regulations pursuant to the APA relating to local sales and use tax.
- (3) Enter into agreements with local tax collectors.
- (4) Enter into contracts for the services of legal counsel, analysts, auditors, appraisers, and witnesses, as well as any agency or department of the state or any state or local political subdivision.
- (5) Issue policy advice on matters concerning the imposition, collection, and administration of local sales and use tax.

- (6) Prescribe uniform forms and model procedures to be used by local sales and use tax collectors.
- (7) Procure the development of computer software and equipment for the collection and administration of local sales and use taxes.
- (8) Employ an executive director, and any necessary agents, assistants, auditors, clerks, inspectors, investigators, or other experts and employees.
- (9) Develop a coordinated multi-parish audit process.

The board is required to provide for a voluntary disclosure program by rule and to create a uniform refund request and approval process.

Proposed law provides that the Louisiana Uniform Local Sales Tax Board is to be composed of eight members:

- (1) The executive director of the Louisiana Municipal Association.
- (2) The executive director of the School Board Association.
- (3) The executive director of the Police Jury Association.
- (4) The executive director of the Sheriff's Association.
- (5) The head of a single parish collector's office appointed by the executive board of the Louisiana Municipal Association.
- (6) The head of a single parish collector's office appointed by the board of directors of the Louisiana School Boards Association.
- (7) The head of a single parish collector's office appointed by the executive board of the Police Jury Association of Louisiana.
- (8) The head of a single parish collector's office appointed by the executive committee of the Sheriff's Association.

The first four members shall be permanent board members and the last four members shall be appointed for five year terms except for the initial appointment which may be for any term between two and five years as determined by the permanent members of the board. The appointing associations shall coordinate to insure that all regions of the state are represented on the board.

The board is domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

Proposed law provides for funding the board through a dedication of a percentage of the collections of local sales and use taxes on motor vehicles not to exceed:

- (a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.
- (b) In Fiscal Year 2018-2019, one-third of one percent of the collections.
- (c) In Fiscal Year 2019-2020 and each fiscal year thereafter, one-half of one percent of the collections.

The percentage rate shall be determined by the board based on its prior year's actual operating expenses and any specific requirements for major expenditures in the coming year.

Proposed law authorizes the board to transfer monies to assist in funding the Local Tax Division of the Board of Tax Appeals in the event that the collections under R.S. 47:302(K) are insufficient to fund the dedication for the operations of the Local Tax Division made under R.S. 47:302(K)(7).

Proposed law creates the Louisiana Sales and Use Tax Commission for Remote Sellers within the Dept. of Revenue for the administration and collection of state and local sales and use taxes related to remote sales and to promote uniformity and simplicity in sales and use tax compliance in Louisiana for remote sellers while still reserving to local political subdivisions the right to levy and collect local sales and use taxes.

Proposed law provides that Dept. of Revenue shall in no way interfere with or change the decisions or operations of the commission.

Proposed law provides that the commission will serve as the single entity in Louisiana required under federal proposals such as the Marketplace Fairness Act of 2015 to require remote sellers to collect and remit sales and use tax on Louisiana sales. The commission will also:

- (1) Provide the minimum tax administration, collection, and payment requirements required by federal law with respect to the collection and remittance of sales and use tax imposed on remote sales.
- (2) Provide at no expense to remote sellers software programs to facilitate the filing, reporting, payment, and remittance of state and local sales and use taxes to the appropriate local Louisiana jurisdictions to which remote sales are sourced.
- (3) Maintain a free Internet database that provides information to remote sellers regarding the taxability of products and services, exclusions, exemptions, rates, and territorial boundaries.
- (4) Provide remote sellers software that calculates the sales and use tax due on each transaction at the time the transaction is completed, that files sales and use tax returns, and that is updated to reflect changes in rates or bases.
- (5) If necessary, establish a fiscal agent solely for the purpose of remote seller remittances.

- (6) Provide remote sellers and certified software providers within thirty days, or as required by federal law, notice of a rate change by the state or any local taxing jurisdiction in the state.
- (7) Provide a procedure for persons to be approved as certified software providers.
- (8) Provide to remote sellers, and at no cost to them, an electronic sales and use tax remote sales tax return format for use in reporting and remitting state and local sales taxes.
- (9) Provide an electronic means for remote sellers to determine the appropriate local taxing authority to receive the tax on remote sales.

Proposed law provides that the Louisiana Sales and Use Tax Commission for Remote Sellers is to be composed of eight members:

- (1) The secretary of the Dept. of Revenue.
- (2) Three employees of the Dept. of Revenue appointed by the secretary.
- (3) The four nonpermanent members selected to serve on the Louisiana Uniform Local Sales Tax Board.

The commission is domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

Proposed law provides that the commission shall employ an executive director to direct the day to day operations of the commission and shall develop procedures to govern its day to day operations in accordance with the APA.

Proposed law provides for funding the commission through a dedication of a percentage of the collections of local sales and use taxes collected by the commission not to exceed one percent.

Proposed law provides that the commission will have the power and duty to:

- (1) To serve as the single entity within the state of Louisiana responsible for all state and local sales and use tax administration for remote sales sourced to Louisiana.
- (2) To provide a free Web-based portal as the single filing point for both local and state sales and use tax returns for remote sales and to serve as the central, single agency to which remote sellers shall make state and local sales and use tax remittances.
- (3) To assign and direct a single audit of remote sellers for the state and all local taxing authorities.
- (4) To serve as the single state agency to represent both state and local taxing authorities in taking appropriate action to enable Louisiana to participate in programs designed to allow

Louisiana to receive additional state and local sales and use taxes on sales made by remote sellers.

- (5) To conduct administrative hearings as requested by aggrieved remote sellers and render decisions following such hearings.
- (6) To require remote sellers to register with the commission.
- (7) To provide to the single tax collector for each parish an annual report of revenues collected and distributed.
- (8) To enter into agreements to waive or suspend prescription as to state and local taxes.
- (9) With the consent of the affected local taxing authority, issue notices of intent to assess, notices of assessments, enforce collection of local taxes by distraint and sale, institution of summary proceedings or ordinary proceedings for collection of local taxes.
- (10) To sue and be sued.

Proposed law provides that the commission's authority is limited to transactions involving remote sellers and that the commission is not authorized to serve as the single collector of state and local use tax and that the commission shall not usurp the authority granted to local taxing authorities to levy, collect and administer their own taxes.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d), and (e), 337.49, 337.81(A)(1), 337.87(C)(1)(intro. para.), 337.92(1), and 1407(3); Adds R.S. 36:459(A), R.S. 47:337.86(E)(3), 337.87(C)(1)(d), 337.102, 339, and 340)