

1 ~~nine members appointed as follows: two members appointed by the Louisiana~~
 2 ~~Municipal Association; two members appointed by the Louisiana School Boards~~
 3 ~~Association; two members appointed by the Police Jury Association of Louisiana;~~
 4 ~~two members appointed by the Louisiana Sheriffs' Association; and one member~~
 5 ~~appointed by the Louisiana Association of Tax Administrators~~ the Louisiana
 6 Uniform Local Sales Tax Board. The secretary shall assess a collection fee, not to
 7 exceed one percent of the proceeds of the tax, as reimbursement for the actual cost
 8 of collection of the tax. The department shall keep the ~~commission board~~ board informed
 9 on a regular basis of the collection and distribution of the taxes collected, and the
 10 ~~commission board~~ board shall receive a copy of the executive budget submission of the
 11 Local Tax Division of the Board of Tax Appeals.

12 * * *

13 §337.2. Intent; application and interpretation of Chapter

14 * * *

15 C. Notwithstanding any other law to the contrary, in order to insure
 16 taxpayers of uniformity of tax collection, the regulations applicable to the sales and
 17 use tax of the tax authorities provided for in this Chapter shall be the following:

18 (1) For purposes of this Section, the following terms shall have the following
 19 definitions:

20 (a) "Board" means the ~~board of directors of the Louisiana Association of Tax~~
 21 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board created by R.S.
 22 47:337.102.

23 * * *

24 §337.19. Withholding of state funds; assessment and collection standards

25 A. The secretary of the Department of Revenue, after consultation with
 26 ~~representatives of the Louisiana Municipal Association, the Louisiana Police Jury~~
 27 ~~Association, the Louisiana School Boards Association, and the Louisiana~~
 28 ~~Association of Tax Administrators~~ the Louisiana Uniform Local Sales Tax Board,
 29 is hereby authorized and directed to promulgate rules, pursuant to the enforcement

1 of R.S. 47:306(D). Such rules shall also apply to R.S. 47:337.18(C). The municipal
2 and parish permitting agencies of each parish as specified in R.S. 47:306(D)(2)(a)
3 and R.S. 47:337.18(C)(2)(a) shall comply with rules authorized by this Subsection
4 within six months of the effective date of such rules.

5 * * *

6 §337.23. Uniform electronic local return and remittance system; official record of
7 tax rates, and exemptions; filing and remittance of local sales and use taxes;
8 penalties for violations

9 * * *

10 B.(1) The system by which such taxpayers file electronically and pay their
11 taxes and by which the information provided for in Subsection I is to be posted on
12 the internet shall be established, managed, and supervised by the secretary of the
13 Department of Revenue. The Uniform Electronic Local Return and Remittance
14 Advisory Committee shall provide advice and may make enforceable
15 recommendations to the secretary for his consideration with regard to the design,
16 implementation, and operation of the system in the manner provided for by this
17 Section. The advisory committee is hereby created within the Department of
18 Revenue and shall be composed of the following members:

19 * * *

20 (b) ~~A representative of a local governmental subdivision who shall be~~
21 ~~appointed by the governor from a list of three names, one provided to him by the~~
22 ~~Louisiana Municipal Association, one by the Police Jury Association of Louisiana,~~
23 ~~and one by the Louisiana School Board Association. The member shall serve at the~~
24 ~~pleasure of the governor. He~~ The chairman of the Louisiana Uniform Local Sales
25 Tax Board, or in the absence of the chairman, the vice chairman of the board, who
26 shall serve as chair of the advisory committee.

27 * * *

28 (d) The head of a collector's office, appointed by the ~~governor~~ Louisiana
29 Uniform Local Sales Tax Board from a list of three names provided ~~to him~~ by the

1 board of directors of the Louisiana Association of Tax Administrators, to serve ~~at the~~
2 ~~pleasure of the governor~~ for a three-year term.

3 (e) A representative of a business ~~which~~ that is required to file sales and use
4 tax returns for multiple collectors in the state, who shall be appointed by the
5 governor from a list of three names provided to him jointly by the Louisiana ~~Retail~~
6 Retailers Dealers Association and the Louisiana Association of Business and
7 Industry. The member shall serve at the pleasure of the governor.

8 * * *

9 §337.49. Protest to collector's determination of tax due

10 A. The taxpayer, within fifteen calendar days from the date of the notice
11 provided in R.S. 47:337.48(A) or within thirty calendar days from the date of the
12 notice provided in R.S. 47:337.48(B), may protest thereto. This protest must be in
13 writing and should fully disclose the reasons, together with facts and figures in
14 substantiation thereof, for objecting to the collector's determination. The collector
15 shall consider the protest, and shall grant a hearing thereon, before making a final
16 determination of tax, penalty, and interest due.

17 B. The taxpayer or the local collector may request that a member of the
18 Louisiana Uniform Local Sales Tax Board attend a hearing granted in accordance
19 with this Section. The request shall be made in writing and received by the board at
20 least five business days prior to the date of the hearing. The chairman of the board
21 may appoint a designee to serve in the place of a board member for this purpose. A
22 person eligible to serve as a designee shall be either a full-time employee of the
23 board or the head of a single parish collector's office.

24 * * *

25 §337.81. Appeals from the collector's disallowance of refund claim

26 A.(1) If the collector fails to act on a properly filed claim for refund or credit
27 within one year from the date received by him or by the Louisiana Uniform Local
28 Sales Tax Board or if the collector denies the claim in whole or in part, the taxpayer
29 claiming such refund or credit may within thirty days of the notice of disallowance

1 of the claim request a hearing with the collector for redetermination. The collector
2 shall render a decision within thirty days of the request by the taxpayer.

3 * * *

4 §337.86. Credit for taxes paid

5 * * *

6 E.

7 * * *

8 (3) Optional concursus proceeding.

9 (a) When a taxpayer or dealer has received a formal notice of assessment
10 from two or more Louisiana local collectors having a competing or conflicting claim
11 to sales or use tax on a transaction, the taxpayer or dealer is hereby authorized to file
12 a concursus proceeding before the Local Tax Division of the Louisiana Board of Tax
13 Appeals, hereinafter referred to as "board". If a concursus is filed, the taxpayer or
14 dealer, as applicable, shall pay the amount of sales tax collected or, if no tax was
15 collected, the amount of tax due at the highest applicable rate, together with penalty
16 and interest, into the Escrow Account for the Registry of the Board of Tax Appeals.
17 The proceeding shall name as defendants all parishes that are parties to the dispute.
18 The filing of a concursus proceeding in compliance with the provisions of this
19 Paragraph shall prevent collection of assessment from the taxpayer or dealer. No
20 additional interest or penalties shall accrue against the taxpayer on the amount of
21 payment made pursuant to this Paragraph following the date of such payment. The
22 board's judgment may order the tax payment held in escrow to be disbursed to the
23 proper parish under the law and ordinances applicable to the case, and may also
24 order the payment of any refund due to the taxpayer or dealer.

25 (b) Any refund ordered by the board to a dealer who collected the tax shall
26 further stipulate that the dealer promptly issue refunds to their customers as
27 necessary, and that the dealer shall not benefit from any excess tax collected as a
28 result of filing the concursus proceeding.

1 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership;
2 powers and duties

3 A. Creation of the board. The Louisiana Uniform Local Sales Tax Board,
4 hereinafter referred to in this Section as "board", is hereby created as a political
5 subdivision of the state as such term is defined in the Constitution of Louisiana. The
6 board shall be subject to all legal requirements applicable to a public body, including
7 procurement, ethics, record retention, fiscal and budgetary controls, and legislative
8 audit in the same manner as any local political subdivision. The domicile of the
9 board shall be East Baton Rouge Parish. The board may meet and conduct business
10 at other locations within the state of Louisiana.

11 B. Board membership and organization. (1) The board shall consist of eight
12 members, as follows:

13 (a) The executive director of the Louisiana Municipal Association.

14 (b) The executive director of the Louisiana School Boards Association.

15 (c) The executive director of the Police Jury Association of Louisiana.

16 (d) The executive director of the Louisiana Sheriffs Association.

17 (e) The head of a single parish collector's office appointed by the executive
18 board of the Louisiana Municipal Association.

19 (f) The head of a single parish collector's office appointed by the board of
20 directors of the Louisiana School Boards Association.

21 (g) The head of a single parish collector's office appointed by the executive
22 board of the Police Jury Association of Louisiana.

23 (h) The head of a single parish collector's office appointed by the executive
24 committee of the Louisiana Sheriff's Association.

25 (2) The board members established in Subparagraphs (B)(1)(a) through (d)
26 of this Section shall be permanent members of the board.

27 (3) The board member appointments provided for in Subparagraphs (B)(1)(e)
28 through (h) of this Section shall be made no later than August 31, 2017. Employees,
29 legal counsel, and vendors of a single parish collector's office shall not be eligible

1 for appointment to the board. Members appointed to the board pursuant to
2 Subparagraphs (B)(1)(e) through (h) of this Section shall serve at the pleasure of the
3 respective appointing authority. The appointing authorities shall coordinate their
4 appointments to the board in order that the board's membership is representative of
5 the diverse regions of the state and to ensure that no two members represent a single
6 parish.

7 (4) A permanent member of the board may appoint a designee to attend
8 board meetings and vote by proxy on his behalf, the procedure for which shall be
9 determined by rule of the board.

10 (5) The board shall hold its organizational meeting no later than October 15,
11 2017, at which time it shall elect a chairman, vice chairman, and such other officers
12 as determined necessary at the first meeting.

13 (6) Board members shall serve without compensation, but may be
14 reimbursed for reasonable expenses incurred in the performance of their duties.

15 C. Powers and duties of the board. The board may:

16 (1) Support and advise local sales and use tax collectors concerning the
17 imposition, collection, and administration of local sales and use taxes authorized
18 under the constitution and laws of this state.

19 (2) Promulgate rules and regulations in accordance with Part H of Chapter
20 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

21 (3) Enter into agreements with local tax collectors.

22 (4) Enter into contracts for the services of legal counsel, analysts, auditors,
23 appraisers, and witnesses, as well as any agency or department of the state or any
24 state or local political subdivision.

25 (5) Issue policy advice on matters concerning the imposition, collection, and
26 administration of local sales and use tax.

27 (6) Prescribe uniform forms and model procedures to be used by local sales
28 and use tax collectors.

1 (7) Procure the development of computer software and equipment for the
2 collection and administration of local sales and use taxes.

3 (8) Employ an executive director, and any necessary agents, assistants,
4 auditors, clerks, inspectors, investigators, or other experts and employees.

5 (9) Issue private letter rulings when requested pursuant to this Section as to
6 the imposition, collection, and administration of local sales and use tax.

7 D. Issuance of policy advice.

8 (1) The board may issue policy advice intended to provide guidance to
9 taxpayers or dealers with respect to any local sales and use tax issue. A taxpayer or
10 dealer may request a private letter ruling from the board by sending a certified letter
11 to the board and to the respective local tax collectors. Prior to the issuance of a
12 private letter ruling, the board may solicit additional information from the respective
13 local tax collectors. A private letter ruling issued by the board shall be transmitted
14 by certified mail simultaneously to both the requesting party and the respective local
15 tax collectors. A private letter ruling shall be posted in redacted form on the board's
16 website within ten days of its issuance.

17 (2) If a request for a private letter ruling involves a single local tax collector,
18 the tax collector may elect to decline to participate in the private letter ruling process
19 provided for in this Subsection with respect to that request for a private letter ruling
20 by notifying the board and the requesting party within ten days of receipt of the
21 request. If the board receives this notification, the board shall decline the request for
22 the ruling.

23 (3) Except as otherwise provided in Paragraph (2) of this Subsection, a
24 private letter ruling shall bind the decision or discretion of a local tax collector
25 served with notice of the request pursuant to Paragraph (1) of this Subsection.
26 However, any party to the dispute may seek a review of the ruling within twenty
27 days of the date of its certified mailing by filing a petition to the Local Tax Division
28 of the Louisiana Board of Tax Appeals. The only grounds for overturning a private
29 letter ruling on appeal shall be that the ruling is contrary to law or a controlling

1 ordinance, conflicts with pre-existing jurisprudence, or otherwise is clearly arbitrary
2 and capricious. Any private letter ruling that is appealed shall be stayed until the
3 appeal is resolved by final judgment or by settlement.

4 E. Rulemaking. The board, after consultation with the Board of Directors
5 of the Louisiana Association of Tax Administrators, hereinafter referred to in this
6 Section as "LATA", is hereby authorized and directed to promulgate rules and
7 regulations pursuant to R.S. 47:337.94. The board shall request a non-binding
8 recommendation from LATA prior to the issuance of a rule or regulation. The
9 recommendation shall be submitted to the board within thirty days of the request, and
10 a failure on the part of LATA to provide a recommendation shall not preclude the
11 promulgation of a rule or regulation by the board.

12 F. Voluntary disclosure program. The board shall promulgate rules pursuant
13 to the Administrative Procedure Act to establish a uniform voluntary disclosure
14 program for taxpayers seeking relief from penalties in cases where a liability to more
15 than one local sales and use tax collector is owed. The board shall accept
16 applications from taxpayers seeking to participate in the program and may issue a
17 recommendation for the waiver of penalties for taxpayers who have complied with
18 program requirements, including full payment of taxes and interest. This
19 recommendation shall be binding on local tax collectors absent fraud, material
20 misrepresentation, or any such misrepresentation of the facts by the taxpayer.

21 G. Refunds. The board shall establish uniform standards and forms for the
22 purpose of refund requests for all local sales and use taxes. The refund denial form
23 shall include notice to taxpayers that a refund request denial is appealable to the
24 Board of Tax Appeals, and shall provide specific information as to deadlines and
25 other requirements as provided by law for such an appeal. The board shall serve as
26 the central filing agency for all refund claims involving two or more Louisiana
27 parishes having transactions similar in fact. The filing of a refund claim with the
28 board shall suspend the running of prescription. The board shall notify the respective
29 tax collector within fifteen days of receipt of a refund request. The function of the

1 board with respect to refund requests shall be ministerial in nature and the board
2 shall have no authority over the approval or denial of a request.

3 H. Multi-parish audits. The board may develop a coordinated multi-parish
4 audit process which may be requested by a taxpayer having a location in the state
5 and registered to file and remit local sales and use taxes pursuant to a local ordinance
6 in at least three parishes. If a coordinated multi-parish audit program is developed,
7 the program shall be implemented through a pilot program prior to statewide
8 availability.

9 I. Funding. (1) The board shall be funded through a dedication of a
10 percentage of the total statewide collections of local sales and use tax on motor
11 vehicles, in accordance with the limitations provided in this Paragraph and the
12 budgetary policy as provided in Paragraph (2) of this Subsection. Monies shall be
13 payable monthly from the current collections of the tax. The dedication shall be
14 considered a cost of collection and shall be deducted by the state and disbursed to the
15 board prior to distribution of tax collections to local taxing authorities. The
16 dedication shall be in addition to any fee imposed by the office of motor vehicles for
17 the collection of the local sales and use tax on motor vehicles. The amount to be
18 disbursed to the board in any fiscal year shall not, under any circumstances and
19 notwithstanding any budget adopted by the board, exceed the following:

20 (a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.

21 (b) In Fiscal Year 2018-2019, one-quarter of one percent of the collections.

22 (c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of
23 one percent of the collections.

24 (2)(a) The actual amount to be disbursed to the board by the office of motor
25 vehicles in any fiscal year shall be determined by the requirements of the annual
26 budget adopted by the board for that year, subject to the limitations established in
27 Subparagraphs (a) through (c) of Paragraph (1) of this Subsection. To accomplish
28 this, by the first day of June each year the chairman of the board shall notify the
29 commissioner of the office of motor vehicles regarding the amount to be disbursed

1 to the board for the ensuing fiscal year, with the exception of Fiscal Year 2018, when
2 the date for such notification shall be determined by agreement of the chairman and
3 the commissioner.

4 (b) The board shall develop and adopt a budget as required by the Louisiana
5 Local Government Budget Act, R.S. 39:1301, et seq. The board shall have the same
6 fiscal year as the state. The adopted budget may be amended as deemed necessary
7 by the board.

8 (3) If use tax collections pursuant to R.S. 47:302(K) yields insufficient
9 revenue to fulfill the dedication made pursuant to R.S. 47:302(K)(7)for interagency
10 transfers to the Department of State Civil Service, Board of Tax Appeals, Local Tax
11 Division, the board shall pay any remaining amount necessary to satisfy the
12 dedication, which payment shall be made into the Local Tax Division Expense Fund
13 within the first thirty days of the fiscal year. The board is authorized to enter into an
14 agreement with the Department of State Civil Service, Board of Tax Appeals, Local
15 Tax Division to pay an amount sufficient to compensate the Local Tax Division for
16 workload increases.

17 J. Employees. Employees of the board shall serve in unclassified positions.

18 K. The board shall adopt a strategic plan for its operations, which shall
19 include specific goals and objectives. The plan shall be adopted by July 1, 2018.

20 L. The board shall provide for the education and training of collectors of
21 local sales and use taxes. Programs shall be offered from time to time as determined
22 by the board, but not less than once per fiscal year.

23 * * *

24 §1407. Jurisdiction of the board

25 The jurisdiction of the board shall extend to the following:

26 * * *

27 (3) All matters related to other jurisdiction otherwise provided by law,
28 including rules to seek uniformity of interpretation of common sales and use tax law
29 or local sales and use tax law, as provided in R.S. 47:337.101(A)(2), and petitions

1 concerning the validity of a collector's rules, regulations, or private letter rulings, as
2 provided in R.S. 47:337.102.

3 * * *

4 Section 3. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

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)]

HB 601 Re-Reengrossed

2017 Regular Session

Stokes

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

Proposed law creates the La. Uniform Local Sales Tax Board (board) and grants the board the following authority:

- (1) Support and advise local tax collectors concerning collection and administration of local taxes.
- (2) Promulgate rules and regulations pursuant to the Administrative Procedure Act relating to local sales and use tax, specifically including rules for a voluntary disclosure program and a uniform refund request and approval process.
- (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) Prescribe uniform forms and model procedures to be used by local sales and use tax collectors.
- (6) Procure the development of computer software and equipment for the collection and administration of local sales and use taxes.
- (7) Employ an executive director, and any necessary agents, assistants, auditors, clerks, inspectors, investigators, or other experts and employees.
- (8) Develop a coordinated multi-parish audit process.

Proposed law provides that the board be composed of the following eight members:

- (1) The executive director of the La. Municipal Association.

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

Proposed law provides that members of the board shall serve at the pleasure of the appointing authority.

Proposed law requires that the board be domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

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

- (a) In Fiscal Year 2017-2018, one-fifth of 1% of the collections.
- (b) In Fiscal Year 2018-2019, one-quarter of 1% of the collections.
- (c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of 1% of the collections.

Proposed law provides that the actual amount to be disbursed to the board by the office of motor vehicles in any fiscal year shall be determined by the requirements of the annual budget adopted by the board for that year, subject to the limitations established in proposed law with regard to maximum percentages of tax collections.

Proposed law requires that by the first day of June each year the chairman of the board notify the commissioner of the office of motor vehicles regarding the amount to be disbursed to the board for the ensuing fiscal year based on the adopted budget, with the exception of Fiscal Year 2017-2018, when the date for the notification shall be determined by agreement of the chairman and the commissioner.

Proposed law requires the board to adopt a strategic plan for its operations no later than July 1, 2018.

Proposed law requires the board to provide for education and training of collectors of local sales and use tax, with at least one program being offered each 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 state use tax 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).

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 are 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.

Effective upon signature of 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), and 337.102)

Summary of Amendments Adopted by House

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

1. Add authority for members of the La. Uniform Local Sales Tax Board (board) to appoint a designee for purposes of attendance at a tax protest hearing or a meeting of the board.
2. Change the term for board member appointments from a certain number of years to at the pleasure of the appointing authority.
3. Change the limitations on the annual amount of funding the board may receive.
4. Add provisions concerning the board's budget.

The House Floor Amendments to the engrossed bill:

1. Remove provisions establishing the Louisiana Sales and Use Tax Commission for Remote Sellers.

The House Floor Amendments to the reengrossed bill:

1. Add a requirement that the board adopt a strategic plan for its operations no later than July 1, 2018.
2. Add a requirement that the board provide for the education and training of local sales and use tax collectors, with at least one program being offered each fiscal year.