

2020 Regular Session

HOUSE BILL NO. 561

BY REPRESENTATIVE DWIGHT

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(7)(b), 337.33(A)(1) and (5), 337.71, 551(B), 1401,  
3 1402(C), (D)(1), (E)(1), and (F), 1403(A)(3), 1407(1), (3), and (7), 1408(D)(1), and  
4 1434(A) and to enact R.S. 47:301(4)(n), 303(I), 337.22(E), 337.33(E), 340(E)(6),  
5 1403(A)(5), and 1431(E), relative to the administration, enforcement, and  
6 adjudication of state and local taxes; to provide for certain collection procedures; to  
7 provide for the jurisdiction of the Board of Tax Appeals; to provide relative to the  
8 timeline for appointments, selection of officers, filling of vacancies, and review of  
9 compensation for the Board of Tax Appeals; to provide relative to interagency  
10 transfers to the Board of Tax Appeals; to provide relative to the definition of a  
11 dealer; to provide relative to definitions and administration of tax related to peer to  
12 peer vehicle sharing; to provide for the filing of certain petitions with the Board of  
13 Tax Appeals; to provide for the judicial review of decisions of the Board of Tax  
14 Appeals; to authorize a local collector to extend a filing or payment deadline under  
15 certain circumstances; to require the publication of certain extensions; to require the  
16 waiver of penalties under certain circumstances; to provide for certain requirements  
17 and limitations; to authorize the filing of certain actions; and to provide for related  
18 matters.

19 Be it enacted by the Legislature of Louisiana:

20 Section 1. R.S. 47:337.33(A)(1) and (5), 337.71, 1401, 1402(C), (D)(1), (E)(1), and  
21 (F), 1403(A)(3), 1407(1), (3), and (7), 1408(D)(1), and 1434(A) are hereby amended and

1 reenacted and R.S. 47:337.22(E), 337.33(E), 340(E)(6), 1403(A)(5), and 1431(E) are hereby  
2 enacted to read as follows:

3 §337.22. Sales and use tax returns

4 \* \* \*

5 E.(1) In the event of a presidential or gubernatorial declared disaster or  
6 emergency covering a local collector's jurisdiction, a local collector may elect to  
7 extend filing or payment deadlines related to the taxes collected pursuant to the  
8 provisions of this Chapter until the extended date for the same period specified for  
9 state sales and use taxes for the same period. Whenever an extension is granted by  
10 the local collector pursuant to this Subsection, interest and penalties shall not accrue  
11 on the tax during the period of the extension provided that the return and payment  
12 are received by the extended due date. Any decision to adopt an extension pursuant  
13 to this Subsection shall be provided to the Louisiana Uniform Local Sales Tax Board  
14 for publication on its website.

15 (2) The authority granted in this Subsection shall be in addition to any other  
16 authority provided by this Chapter.

17 \* \* \*

18 §337.33. Failure to pay tax; rule to cease business

19 A.(1) On motion in a court of competent jurisdiction, the collector may take  
20 a rule on a taxpayer, to show cause in not less than two or more than ten days,  
21 exclusive of holidays, why the taxpayer should not be ordered to cease from further  
22 pursuit of his business for failure to pay to the taxing authority amounts collected  
23 from others by his business as sales and use tax, along with any interest, penalty, and  
24 costs related to such tax. Such rule may be taken only for amounts due as a result  
25 of assessments or judgments which have become final and nonappealable or for  
26 amounts shown to have been actually collected from others and not remitted to the  
27 collector.

28 \* \* \*

29 (5) The collection procedure provided for in this Subsection shall be in  
30 addition to any other collection procedure provided by law. When issuing an order



1           §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;  
2                           powers

3   \*       \*       \*

4           E.

5   \*       \*       \*

6                           (6)(a) The commission is authorized to enter into a cooperative endeavor  
7                           agreement for the purposes specified in R.S. 47:1439(F)(3), and any payments due  
8                           pursuant thereto shall be added to any amounts due pursuant to Paragraph (5) of this  
9                           Subsection.

10                           (b) Any amount due pursuant to this Paragraph or Paragraph (5) of this  
11                           Subsection shall be in addition to any amounts otherwise retained pursuant to  
12                           Paragraph (3) of this Subsection.

13   \*       \*       \*

14           §1401. Creation of Board of Tax Appeals

15                           In order to provide effect to the provisions of Article V, Section 35 and  
16                           Article VII, Section 3(A) of the Constitution of Louisiana, a board that will ~~act as an~~  
17                           ~~appeal board~~ to hear and decide, at a minimum of expense to the taxpayer, questions  
18                           of law and fact arising from disputes or controversies between a taxpayer and any  
19                           collector of the ~~State~~ state of Louisiana or its political subdivisions in the  
20                           enforcement of any tax, excise, license, permit or any other tax, fee, penalty, receipt  
21                           or other law administered by a collector, and to exercise other jurisdiction as  
22                           provided by law, including jurisdiction as provided for in the Uniform Local Sales  
23                           Tax Code, the Board of Tax Appeals, hereinafter referred to as the "board", is created  
24                           as an independent agency ~~in the Department of State Civil Service~~, and for the  
25                           purposes of this Chapter. The Local Tax Division is created as an independent  
26                           agency and authority within the board for the purposes of exercising jurisdiction over  
27                           disputes involving local collectors.

1 §1402. Membership of board; qualifications; appointment; term; vacancy; salary

2 \* \* \*

3 C. The governor shall make the following appointments on or before  
4 September 1, 2014: one member with a term expiring February 1, 2016, and one  
5 member with a term expiring February 1, 2018. The successor to the member whose  
6 term expires pursuant to this Section on February 1, 2020 shall be appointed to a  
7 term expiring January 1, 2024, and the successor to the member whose term expires  
8 February 1, 2022 shall be appointed to a term expiring January 1, 2026. Any  
9 subsequent appointments pursuant to this Subsection shall be for either a fixed term  
10 of four years from the date of the expiration of the expired term or for the remainder  
11 of an unexpired term.

12 D.(1) On or before August 1, 2014, the governor shall appoint one member  
13 to a term expiring February 1, 2020, from a list of qualified nominees provided by  
14 the nominating committee established pursuant to this Subsection. The successor to  
15 that member shall be appointed to a term expiring January 1, 2026. Any subsequent  
16 appointments pursuant to this Subsection shall be for either a fixed term of six years  
17 from the date for expiration of the expired term or for the remainder of an unexpired  
18 term. An appointment pursuant to the provisions of this Subsection shall be made  
19 within ninety days of written notice of the nomination.

20 \* \* \*

21 E.(1) ~~A~~ Notwithstanding any provision of law to the contrary, a board  
22 member shall continue to serve until a successor has been appointed. No member  
23 may be removed ~~during an unexpired~~ except by induction into office of a successor,  
24 duly appointed and qualified pursuant to this Section, upon expiration of a term of  
25 office ~~except~~ or for good cause shown, which shall be subject to judicial review.

26 \* \* \*

27 F. ~~The governor shall establish the~~ compensation to be paid to members of  
28 the board, including any additional compensation for its officers, shall be continued.  
29 Beginning January 1, 2024, the board's regular salary shall be subject to review and  
30 recommendation by the Judicial Compensation Commission. Any recommendation



1 (3) All matters related to state or local taxes or fees, or other jurisdiction  
 2 otherwise provided by law, including rules to cease business, ordinary collection  
 3 suits, summary tax proceedings, rules to seek uniformity of interpretation of common  
 4 sales and use tax law or local sales and use tax law, as provided in R.S.  
 5 47:337.101(A)(2), and petitions concerning the validity of a collector's rules,  
 6 regulations, or private letter rulings, as provided in R.S. 47:337.102.

7 \* \* \*

8 (7) A petition for declaratory judgment or other action related to the  
 9 constitutionality of a law or ordinance or validity of a regulation concerning any  
 10 matter relating to any state or local tax or fee excluding those tax matters within the  
 11 jurisdiction of the Louisiana Tax Commission pursuant to the provisions of Article  
 12 VII, Section 18(E) of the Constitution of Louisiana.

13 \* \* \*

14 §1408. Power to administer oaths and issue rules, orders, or subpoenas

15 \* \* \*

16 D.(1) An action may be brought in the Board of Tax Appeals pursuant to the  
 17 provisions of R.S. 47:314, ~~337.33(A)~~ 337.33, 337.43, 1547, 1574.1, or 1582, and the  
 18 provisions of those Sections shall apply to the Board of Tax Appeals and its Local  
 19 Tax Division in the same manner as for a district court. In addition to the remedies  
 20 otherwise provided for in this Section, any interested party may file a motion or rule  
 21 in any court of competent jurisdiction alleging a violation of any order issued by the  
 22 board or its local tax judge pursuant to applicable law, and the district court shall  
 23 consider any violation shown to be a contempt of the court and shall immediately  
 24 punish the violator in accordance with R.S. 13:4611(1) and all other applicable laws  
 25 for contempt of court.

26 \* \* \*

27 §1431. ~~Taxpayer's petition~~ Filing of petition

28 \* \* \*

29 E. Any collector, taxpayer, or other aggrieved party may file a petition or  
 30 pleading with the board concerning any matter provided for pursuant to R.S.







1 retain all funds ~~which~~ that are transferred as directed in this Subparagraph and  
2 Subparagraph (b) of this Paragraph.

3 \* \* \*

4 §303. Collection

5 \* \* \*

6 I. The state sales tax collected by dealers as defined in R.S. 47:301(4)(n)  
7 shall be filed and paid electronically to the secretary.

8 \* \* \*

9 §551. Imposition of tax

10 \* \* \*

11 B. (1) The tax shall be payable to the secretary of the Department of  
12 Revenue. The tax shall be collected and payment enforced pursuant to the provisions  
13 of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950  
14 insofar as such provisions are not in conflict with this Section. The secretary is  
15 authorized to promulgate rules and regulations necessary for the proper  
16 administration and enforcement of this Chapter.

17 (2) The state and local taxes levied pursuant to Subsection (A) of this Section  
18 shall be filed and paid electronically to the secretary by dealers as defined in R.S.  
19 47:301(4)(n).

20 \* \* \*

21 Section 3. The provisions of this Section and Section 1 of this Act shall be effective  
22 July 1, 2020. The provisions of Section 2 of this Act shall be effective on January 1, 2021.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_