

2017 Regular Session

HOUSE BILL NO. 601

BY REPRESENTATIVE STOKES

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d),
3 and (e), 337.49, 337.81(A)(1), 337.87(C)(1)(introductory paragraph), 337.92(1), and
4 1407(3) and to enact R.S. 36:459(A), R.S. 47:337.86(E)(3), 337.87(C)(1)(d),
5 337.102, and Chapter 2-E of Subtitle II of Title 47 of the Louisiana Revised Statutes
6 of 1950, to be comprised of R.S. 47:339 and 340, relative to sales and use tax
7 administration; to provide with respect to a concursus proceeding for determination
8 of the proper local taxing jurisdiction; to establish the Louisiana Uniform Local
9 Sales Tax Board as a political subdivision of the state for purposes of uniformity and
10 efficiency of imposition, collection, and administration of local sales and use taxes;
11 to provide for membership of the board; to provide for powers and duties of the
12 board; to establish a dedication of revenue for support of operations of the board; to
13 establish the Louisiana Sales and Use Tax Commission for Remote Sellers for
14 purposes of uniformity and efficiency of collection and administration of state and
15 local sales and use tax relative to remote sellers; to provide for membership of the
16 commission; to provide for duties and powers of the commission; to provide for
17 effectiveness; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 36:459(A) is hereby enacted to read as follows:

20 §459. Transfer of agencies or their powers to Department of Revenue

21 A. The Louisiana Sales and Use Tax Commission for Remote Sellers is
22 placed within the Department of Revenue and shall exercise and perform its powers,
23 duties, functions, and responsibilities as provided for agencies transferred in

1 accordance with the provisions of R.S. 36:801.1. The secretary and the Department
2 of Revenue shall in no way interfere with, review, or change the decisions or
3 operations of the agency so placed.

4 * * *

5 Section 2. R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d), and
6 (e), 337.49, 337.81(A)(1), 337.87(C)(1)(introductory paragraph), 337.92(1), and 1407(3) are
7 hereby amended and reenacted and R.S. 47:337.86(E)(3), 337.87(C)(1)(d), 337.102, and
8 Chapter 2-E of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised
9 of R.S. 47:339 and 340 are hereby enacted to read as follows:

10 §302. Imposition of tax

11 * * *

12 K. An additional tax shall be levied as follows:

13 * * *

14 (6) The taxes levied under this Subsection shall be collected by the
15 Department of Revenue, advised by ~~a sales and use tax commission consisting of~~
16 ~~nine members appointed as follows: two members appointed by the Louisiana~~
17 ~~Municipal Association; two members appointed by the Louisiana School Boards~~
18 ~~Association; two members appointed by the Police Jury Association of Louisiana;~~
19 ~~two members appointed by the Louisiana Sheriffs' Association; and one member~~
20 ~~appointed by the Louisiana Association of Tax Administrators~~ the Louisiana
21 Uniform Local Sales Tax Board. The secretary shall assess a collection fee, not to
22 exceed one percent of the proceeds of the tax, as reimbursement for the actual cost
23 of collection of the tax. The department shall keep the commission board informed
24 on a regular basis of the collection and distribution of the taxes collected, and the
25 commission board shall receive a copy of the executive budget submission of the
26 Local Tax Division of the Board of Tax Appeals.

27 * * *

28 §337.2. Intent; application and interpretation of Chapter

29 * * *

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

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

6 (a) "Board" means the ~~board of directors of the Louisiana Association of Tax~~
7 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board created by R.S.
8 47:337.102.

9 * * *

10 §337.19. Withholding of state funds; assessment and collection standards

11 A. The secretary of the Department of Revenue, after consultation with
12 ~~representatives of the Louisiana Municipal Association, the Louisiana Police Jury~~
13 ~~Association, the Louisiana School Boards Association, and the Louisiana~~
14 ~~Association of Tax Administrators~~ the Louisiana Uniform Local Sales Tax Board,
15 is hereby authorized and directed to promulgate rules, pursuant to the enforcement
16 of R.S. 47:306(D). Such rules shall also apply to R.S. 47:337.18(C). The municipal
17 and parish permitting agencies of each parish as specified in R.S. 47:306(D)(2)(a)
18 and R.S. 47:337.18(C)(2)(a) shall comply with rules authorized by this Subsection
19 within six months of the effective date of such rules.

20 * * *

21 §337.23. Uniform electronic local return and remittance system; official record of
22 tax rates, and exemptions; filing and remittance of local sales and use taxes;
23 penalties for violations

24 * * *

25 B.(1) The system by which such taxpayers file electronically and pay their
26 taxes and by which the information provided for in Subsection I is to be posted on
27 the internet shall be established, managed, and supervised by the secretary of the
28 Department of Revenue. The Uniform Electronic Local Return and Remittance
29 Advisory Committee shall provide advice and may make enforceable
30 recommendations to the secretary for his consideration with regard to the design,

1 implementation, and operation of the system in the manner provided for by this
2 Section. The advisory committee is hereby created within the Department of
3 Revenue and shall be composed of the following members:

4 * * *

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

12 * * *

13 (d) The head of a collector's office, appointed by the ~~governor~~ Louisiana
14 Uniform Local Sales Tax Board from a list of three names provided ~~to him~~ by the
15 board of directors of the Louisiana Association of Tax Administrators, to serve ~~at the~~
16 ~~pleasure of the governor~~ for a three-year term.

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

22 * * *

23 §337.49. Protest to collector's determination of tax due

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

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

8 * * *

9 §337.81. Appeals from the collector's disallowance of refund claim

10 A.(1) If the collector fails to act on a properly filed claim for refund or credit
 11 within one year from the date received by him or by the Louisiana Uniform Local
 12 Sales Tax Board or if the collector denies the claim in whole or in part, the taxpayer
 13 claiming such refund or credit may within thirty days of the notice of disallowance
 14 of the claim request a hearing with the collector for redetermination. The collector
 15 shall render a decision within thirty days of the request by the taxpayer.

16 * * *

17 §337.86. Credit for taxes paid

18 * * *

19 E.

20 * * *

21 (3) Optional concursus proceeding.

22 (a) When a taxpayer or dealer has received a formal notice of assessment
 23 from two or more Louisiana local collectors having a competing or conflicting claim
 24 to sales or use tax on a transaction, the taxpayer or dealer is hereby authorized to file
 25 a concursus proceeding before the Local Tax Division of the Louisiana Board of Tax
 26 Appeals, hereinafter referred to as "board". If a concursus is filed, the taxpayer or
 27 dealer, as applicable, shall pay the amount of sales tax collected or, if no tax was
 28 collected, the amount of tax due at the highest applicable rate, together with penalty
 29 and interest, into the Escrow Account for the Registry of the Board of Tax Appeals.
 30 The proceeding shall name as defendants all parishes that are parties to the dispute.

1 The filing of a concursus proceeding in compliance with the provisions of this
 2 Paragraph shall prevent collection of assessment from the taxpayer or dealer. No
 3 additional interest or penalties shall accrue against the taxpayer on the amount of
 4 payment made pursuant to this Paragraph following the date of such payment. The
 5 board's judgment may order the tax payment held in escrow to be disbursed to the
 6 proper parish under the law and ordinances applicable to the case, and may also
 7 order the payment of any refund due to the taxpayer or dealer.

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

12 (c) A suspensive appeal from any decision or judgment of the board rendered
 13 pursuant to this Paragraph shall be filed with the court of appeal of the parish of the
 14 local collector against whom the appeal is taken. However, if there are multiple
 15 appellees from different circuits, the appeal shall be filed with the court of appeal for
 16 the parish where the taxpayer is domiciled, or if the taxpayer is not domiciled in
 17 Louisiana, then with the Louisiana Court of Appeal, First Circuit.

18 (d) No provision of this Paragraph shall require any taxpayer or dealer to file
 19 a concursus proceeding as authorized by this Paragraph, and no penalty shall be
 20 levied solely on the failure to use this optional procedure.

21 (e) All parties shall be responsible for their respective costs including but not
 22 limited to travel expenses, filing fees, and attorney fees.

23 §337.87. Post-session update procedure

24 * * *

25 C.(1) Prior to the placement of all or a portion of an Act into this code, the
 26 institute shall provide to the following organizations for their review the Acts or
 27 portions of Acts ~~which~~ that it intends to place within the code:

28 * * *

29 (d) The Louisiana Uniform Local Sales Tax Board.

30 * * *

1 §337.92. Definitions

2 As used in this Part:

3 (1) "Board" means the ~~board of directors of the Louisiana Association of Tax~~
4 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board as defined in R.S.
5 47:337.2 ~~which that~~ is required to develop rules and regulations pursuant to Chapter
6 2-D of the Uniform Local Sales Tax Code unless otherwise specified.

7 * * *

8 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership;
9 powers and duties

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

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

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

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

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

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

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

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

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

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

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

5 (3) The board member appointments provided for in Subparagraphs (B)(1)(e)
6 through (h) of this Section shall be made no later than August 31, 2017. Employees,
7 legal counsel, and vendors of a single parish collector's office shall not be eligible
8 for appointment to the board. Members appointed to the board pursuant to
9 Subparagraphs (B)(1)(e) through (h) of this Section shall serve at the pleasure of the
10 respective appointing authority. The appointing authorities shall coordinate their
11 appointments to the board in order that the board's membership is representative of
12 the diverse regions of the state and to ensure that no two members represent a single
13 parish.

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

17 (5) The board shall hold its organizational meeting no later than October 15,
18 2017, at which time it shall elect a chairman, vice chairman, and such other officers
19 as determined necessary at the first meeting.

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

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

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

26 (2) Promulgate rules and regulations in accordance with Part H of Chapter
27 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

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

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

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

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

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

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

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

14 D. Issuance of policy advice.

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

24 (2) If a request for a private letter ruling involves a single local tax collector,
 25 the tax collector may elect to decline to participate in the private letter ruling process
 26 provided for in this Subsection with respect to that request for a private letter ruling
 27 by notifying the board and the requesting party within ten days of receipt of the
 28 request. If the board receives this notification, the board shall decline the request for
 29 the ruling.

1 (3) Except as otherwise provided in Paragraph (2) of this Subsection, a
2 private letter ruling shall bind the decision or discretion of a local tax collector
3 served with notice of the request pursuant to Paragraph (1) of this Subsection.
4 However, any party to the dispute may seek a review of the ruling within twenty
5 days of the date of its certified mailing by filing a petition to the Local Tax Division
6 of the Louisiana Board of Tax Appeals. The only grounds for overturning a private
7 letter ruling on appeal shall be that the ruling is contrary to law or a controlling
8 ordinance, conflicts with pre-existing jurisprudence, or otherwise is clearly arbitrary
9 and capricious. Any private letter ruling that is appealed shall be stayed until the
10 appeal is resolved by final judgment or by settlement.

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

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

28 G. Refunds. The board shall establish uniform standards and forms for the
29 purpose of refund requests for all local sales and use taxes. The refund denial form
30 shall include notice to taxpayers that a refund request denial is appealable to the

1 Board of Tax Appeals, and shall provide specific information as to deadlines and
2 other requirements as provided by law for such an appeal. The board shall serve as
3 the central filing agency for all refund claims involving two or more Louisiana
4 parishes having transactions similar in fact. The filing of a refund claim with the
5 board shall suspend the running of prescription. The board shall notify the respective
6 tax collector within fifteen days of receipt of a refund request. The function of the
7 board with respect to refund requests shall be ministerial in nature and the board
8 shall have no authority over the approval or denial of a request.

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

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

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

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

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

1 (2)(a) The actual amount to be disbursed to the board by the office of motor
2 vehicles in any fiscal year shall be determined by the requirements of the annual
3 budget adopted by the board for that year, subject to the limitations established in
4 Subparagraphs (a) through (c) of Paragraph (1) of this Subsection. To accomplish
5 this, by the first day of June each year the chairman of the board shall notify the
6 commissioner of the office of motor vehicles regarding the amount to be disbursed
7 to the board for the ensuing fiscal year, with the exception of Fiscal Year 2018, when
8 the date for such notification shall be determined by agreement of the chairman and
9 the commissioner.

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

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

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

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

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

29 * * *

CHAPTER 2-E. LOUISIANA SALES AND USE TAX COMMISSIONFOR REMOTE SELLERS§339. Louisiana Sales and Use Tax Commission for Remote Sellers

A. The Louisiana Sales and Use Tax Commission for Remote Sellers, hereinafter referred to as "commission", is created and established within the Department of Revenue for the administration and collection of the sales and use tax imposed by the state and political subdivisions with respect to remote sales. The commission shall:

(1) Promote, to the extent feasible and in accordance with law, uniformity and simplicity in sales and use tax compliance in Louisiana, while reserving to political subdivisions their authority to impose and collect sales and use taxes as provided in Article VI, Section 29 of the Constitution of Louisiana and other laws.

(2) With respect to any federal law as may be enacted by the United States Congress authorizing states to require remote sellers, except those remote sellers who qualify for the small seller exceptions as may be provided by federal law, serve as the single entity in Louisiana to require remote sellers and their designated agents to collect from customers and remit to the commission sales and use taxes on remote sales sourced to Louisiana on the uniform Louisiana state and local sales and use tax base established by Louisiana law.

(3) 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.

(4) Establish a fiscal agent solely for the purpose of remote seller remittances.

B. As used in this Chapter, unless the context clearly indicates otherwise, the following terms shall be defined as follows:

(1) "Commission" means the Louisiana Sales and Use Tax Commission for Remote Sellers.

(2) "Executive director" means the executive director of the commission. The executive director of the Louisiana Uniform Local Sales Tax Board shall serve

1 ex-officio as executive director of the commission unless otherwise directed by the
 2 commission.

3 (3) "Federal law" shall mean any federal law as may be enacted by the
 4 United States Congress authorizing states to require remote sellers, except those
 5 remote sellers who meet the small seller exceptions of federal law, to collect and
 6 remit sales and use taxes on remote sales sourced to Louisiana.

7 (4) "Local taxing authority" and "local" means those parishes, municipalities,
 8 special tax districts, political subdivisions, parish governing bodies, and school
 9 boards who are authorized under the provisions of the Constitution of Louisiana, the
 10 Louisiana Revised Statutes of 1950 and jurisprudence to levy and collect local sales
 11 and use taxes.

12 (5) The term "non-remote sale" means a sale that is not a remote sale.

13 (6) The term "non-remote seller" means a seller that is not a remote seller.

14 (7) The term "person" shall have the meaning as defined by federal law for
 15 purposes of remote sales but shall retain the meaning as provided in R.S. 47:301(8)
 16 for all other purposes in state and local sales and use tax law.

17 (8) "Sales and use taxes" and "taxes" shall mean the sales and use taxes
 18 levied by the state of Louisiana under the provisions of Title 47 of the Louisiana
 19 Revised Statutes of 1950 and the sales and use taxes levied by local taxing
 20 authorities in Louisiana under the provisions of the Constitution of Louisiana,
 21 statutory laws authorizing the imposition of such taxes, and local sales and use tax
 22 ordinances.

23 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; Members;

24 Powers

25 A. The duties of the commission shall be exercised and discharged under the
 26 supervision and direction of a commission with voting power and a non-voting
 27 executive director, all of whom shall be appointed and shall serve as provided in this

28 Section:

29 B. The commission shall be comprised of eight voting commissioners as
 30 follows:

1 (1) The secretary of the Department of Revenue.

2 (2) Three employees or other officials of the Department of Revenue as
3 appointed by the secretary.

4 (3) The members of the Louisiana Uniform Local Sales Tax Board appointed
5 as provided in R.S. 47:337.102(B)(1)(e) through (h). In the absence of such a
6 member, the chairman of the Louisiana Uniform Local Sales Tax Board may appoint
7 a designee to attend commission meetings and vote on their behalf. A person
8 eligible to serve as a designee shall be a permanent member of the board.

9 C. The commission shall elect its own chairman, vice chairman, and such
10 other officers as its rules may direct.

11 D.(1) The commission shall meet as often and at such locations as directed
12 by the chairman, who shall provide timely notice to the public as to the time and
13 location of each meeting. A majority of the commission membership shall constitute
14 a quorum for the transaction of business and no action shall be taken by the
15 commission unless approved by a majority vote of the members present.

16 (2) The domicile of the commission shall be East Baton Rouge Parish. The
17 commission may meet and conduct commission business at other locations within
18 the state of Louisiana as it may from time to time determine, after timely notice to
19 those persons who may be affected by the change in location.

20 E.(1) The commission shall select and employ an executive director who
21 shall serve at the pleasure of the commission. The executive director, under and
22 subject to the direct supervision and control of the commission, shall direct the
23 day-to-day administration and enforcement of all laws, rules, policies, and
24 regulations which it is the duty of the commission to administer and enforce. The
25 executive director shall receive compensation and benefits as may be determined and
26 fixed by the commission. The executive director may employ professional and
27 administrative staff and set their rate of compensation and benefits, plus necessary
28 expenses incurred in performing their duties, as may be approved by the commission.
29 The commission may enter into a joint services agreement with any other agency,
30 board, or political subdivision concerning the performance of its functions.

1 (2) The commission shall monthly remit monies, less any refunds and
2 amounts retained for expenses as defined in Paragraph (3) of this Subsection, to the
3 appropriate taxing jurisdiction by electronic funds to the designated bank account of
4 that jurisdiction on or before the tenth business day of the month following the
5 month of collection. Records of gross collections, refunds, and amounts retained for
6 expenses shall be made accessible to the respective jurisdiction on a monthly basis.

7 (3) The commission and its operations shall be funded by an amount equal
8 to actual expenses incurred which amount shall not exceed one percent of the total
9 amount of state and local sales and use tax collected on remote sales by the
10 commission. Subject to the limitations provided in this Paragraph, this amount shall
11 be retained by the commission on a monthly basis from current collections of state
12 and local sales tax on remote sales as collected by the commission prior to monthly
13 distribution to the state and local collectors. The commission shall have no authority
14 to retain these monies unless and until a federal law authorizing states to require
15 remote sellers and their agents to collect state and local sales and use taxes on their
16 sales in each state has been enacted and becomes effective.

17 F. The commission shall develop rules and procedures in accordance with
18 the Administrative Procedure Act with respect to implementation of the provisions
19 of this Chapter.

20 G. The commission shall have the power, duty, and authority:

21 (1) To serve as the single entity within the state of Louisiana responsible for
22 all state and local sales and use tax administration, return processing, and audits for
23 remote sales sourced to Louisiana.

24 (2) To serve as the central, single agency to which remote sellers shall make
25 state and local sales and use tax remittances.

26 (3) To assign and direct a single audit of remote sellers for the state and all
27 local taxing authorities.

28 (4) To serve as the single state of Louisiana agency to represent both state
29 and local taxing authorities in taking appropriate action to enable Louisiana to

1 participate in programs designed to allow Louisiana to more efficiently enforce and
 2 collect state and local sales and use taxes on sales made by remote sellers.

3 (5) To conduct administrative hearings as requested by aggrieved remote
 4 sellers, administer oaths, and make adjustments to assessments when justified by the
 5 facts and the law, and render decisions following such hearings.

6 (6) To require remote sellers to register with the commission.

7 (7) To provide to the single tax collector for each parish an annual report of
 8 revenues collected and distributed for the previous calendar year, which report shall
 9 be provided on or before June first of each year.

10 (8) To enter into agreements to waive or suspend prescription with remote
 11 sellers as to state and local taxes.

12 (9) With the consent of the affected local taxing authority, to issue notices
 13 of intent to assess, notices of assessments, enforce collection of local sales and use
 14 taxes by distraint and sale, and institute summary proceedings or ordinary
 15 proceedings for collection of local taxes.

16 (10) To sue and be sued.

17 H. Nothing in this Chapter shall be construed to:

18 (1) Authorize or require any expenditure unless and until a federal law
 19 authorizing states to require remote sellers and their agents to collect state and local
 20 sales and use taxes on their sales in each state has been enacted and becomes
 21 effective.

22 (2) Limit the right of local taxing authorities to levy and collect sales and use
 23 taxes as provided in the Constitution of Louisiana, statutory law, and jurisprudence.

24 (3) Authorize the commission to exercise any right or perform any function
 25 presently exercised by local sales and use tax authorities under present law.

26 (4) Create, repeal, or amend any local tax exclusions or exemptions.

27 (5) Authorize the commission to grant local tax amnesty.

28 (6) Authorize the commission to promulgate rules, regulations, issue private
 29 letter rulings or give to dealers or taxpayers other advice that is inconsistent with the
 30 Constitution of Louisiana, statutory law, or controlling jurisprudence.

1 (7) Require local taxing authorities to make refunds, give tax credit, waive
2 penalties, or waive audit costs.

3 (8) Repeal or amend any provisions of any local tax ordinances.

4 (9) Extend to any local taxes any state exclusions, exemptions, credits,
5 rebates, or other tax relief provisions that do not presently apply to local taxes.

6 (10) Repeal or amend any provision of the Uniform Local Sales Tax Code,
7 R.S. 47:337.1, et seq.

8 (11) Make the state of Louisiana a member of the Streamlined Sales and Use
9 Tax Agreement.

10 (12) Authorize the commission to serve as a central state collection agency
11 for local sales and use taxes.

12 (13) Limit any statutory and ordinal provisions in place as of the effective
13 date of this Act that require dealers and taxpayers, with respect to non-remote sales,
14 to pay and remit directly to the single sales and use tax collector in each parish the
15 sales and use taxes due to each local taxing authority within each parish.

16 (14) Limit or amend any provision of R.S. 47:1508 and 1508.1.

17 I. The Louisiana State Law Institute is hereby authorized and requested to
18 review all statutes which contain phrases being changed by this Chapter and in all
19 locations it deems appropriate change the references, particularly those that apply to
20 the levy and collection of state and local sales and use taxes.

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 other jurisdiction otherwise provided by law,
26 including rules to seek uniformity of interpretation of common sales and use tax law
27 or local sales and use tax law, as provided in R.S. 47:337.101(A)(2), and petitions
28 concerning the validity of a collector's rules, regulations, or private letter rulings, as
29 provided in R.S. 47:337.102.

30 * * *

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____