2016 Regular Session

HOUSE BILL NO. 825

BY REPRESENTATIVE CONNICK

TAX/SALES & USE: Provide for the centralized collection of local sales and use taxes by the Department of Revenue

1	AN ACT
2	To amend and reenact R.S. 47:337.6(A), 337.16, 337.25, 337.64(A), and
3	337.80(A)(introductory paragraph), and to enact R.S. 47:337.22(E) and 337.23(L),
4	and to repeal R.S. 47:337.13 and 337.14, relative to the collection of local sales and
5	use taxes; to require that all sales and use taxes levied by a local taxing authority in
6	the state be collected by the state; to provide for the duties and authority of the
7	secretary of the Department of Revenue; to provide for the accounting and
8	disposition of the local taxes collected; to require reporting; to authorize the
9	inspection of certain records; to provide for certain administrative remedies; to
10	authorize rulemaking; to repeal certain provisions relating to local collection of sales
11	and use taxes; to provide for effectiveness; and to provide for related matters.
12	Be it enacted by the Legislature of Louisiana:
13	Section 1. R.S. 47:337.6(A), 337.16, 337.25, 337.64(A), and 337.80(A)(introductory
14	paragraph) are hereby amended and reenacted and R.S. 47:337.22(E) and 337.23(L) are
15	hereby enacted to read as follows:
16	§337.6. Definitions
17	A. The following words, terms, and phrases used in this Chapter shall have
18	the meaning ascribed to them in this Subsection, unless the context clearly indicates
19	a different meaning:
20	(1) "Collector" means the secretary of the Department of Revenue.

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1	(2) "Department" means the Department of Revenue.
2	(3) "Local collector" means the single collector or collection commission for
3	each parish.
4	(1) (4) "Local ordinance", for purposes of this Chapter, shall include both
5	ordinances and resolutions pursuant to which a political subdivision levies a sales
6	and use tax and otherwise provides with respect thereto.
7	(5) "Local taxing authority" or "taxing authority" means a political
8	subdivision.
9	(2) (6) "Political subdivision" means a parish, municipality, and any other
10	unit of local government, including a school board and a special district, authorized
11	by law to levy and collect a sales and use tax.
12	(3) (6) "Secretary" or "secretary of revenue" means the secretary of the
13	Department of Revenue for the state of Louisiana.
14	* * *
15	§337.16. Authority to collect local sales and use taxes; state central collection
16	A. The secretary of the Department of Revenue is hereby authorized to
17	contract with all the governing authorities of any taxing authority, at the request of
18	the subdivisions, to collect and enforce the collection of any sales and use tax, and
19	related penalty, interest, or other charge, levied by the taxing authorities. In order
20	to collect and enforce any such tax, the secretary is vested with all the power and
21	authority conferred by this Title. Notwithstanding any provision of law to the
22	contrary, beginning July 1, 2017, all sales and use taxes levied by a local taxing
23	authority shall be collected by the state through the secretary of the Department of
24	Revenue. The secretary shall adopt rules and regulations and prescribe forms for the
25	collection of the local taxes that are consistent with the provisions of this Part.
26	B. The contract between the Department of Revenue and such taxing
27	authorities shall be executed by the secretary of the Department of Revenue and the
28	proper official or officials of the governing authorities of the taxing authorities. The
29	contract shall provide the manner, the charges and costs of collection, if any, to be

1	paid by the taxing authorities, and such other terms and conditions necessary to	
2	effectuate the contract. The secretary shall establish a program for the collection and	
3	distribution of sales and use taxes levied by all local taxing authorities in the stat	
4	hereinafter referred to as "non-state tax proceeds". Within the department there sha	
5	be a specific staff with the primary responsibility of ensuring the prompt collection	
6	and remittance of non-state tax proceeds. A member of the staff shall be available	
7	every day of the year, twenty-four hours per day, and provide for and maintain a	
8	system which allows for the sharing of real time data on the collection of taxes for	
9	the benefit of the local taxing authorities for whom the taxes are collected.	
10	C. The program shall provide for the transmission of the non-state tax	
11	proceeds to each respective local collector as follows: taxes collected by electronic	
12	means shall be transmitted within four days of receipt, and taxes collected by check	
13	shall be transmitted within twenty days of receipt. The method for accounting and	
14	distribution of non-state tax proceeds shall be determined by agreement of the	
15	secretary and the state treasurer, and non-state tax proceeds shall not be considered	
16	state monies and shall therefore not be subject to appropriation. The secretary shall	
17	deduct an amount not greater than one-half of one percent of the taxes collected as	
18	compensation for the collection service and to provide for continued support of the	
19	staff assigned to this function. The fee to be charged for collection on behalf of each	
20	taxing authority shall be determined by agreement of the secretary and the respective	
21	taxing authority.	
22	D. No later than February 1, 2017, the single collector for each parish shall	
23	provide the secretary with a copy of all local ordinances affecting the imposition of	
24	sales and use taxes in the parish and shall notify the secretary within ten days after	
25	approval of any action imposing a new tax or otherwise affecting the imposition of	
26	an existing tax. The notice shall be no later than seventy-five days prior to the	
27	effective date of the change and shall specify the tax rate or base change, the time	
28	period during which the change shall be in effect, and include a copy of the local tax	
29	ordinance and any other information as may be required by the secretary.	

1	E. There shall be a monthly reconciliation of the account for each parish,	
2	which shall provide detailed information regarding the amounts of tax collected and	
3	remitted to the local collector.	
4	F.(1) On a quarterly basis, the secretary shall provide a report of the tax	
5	collected and the cost of collection to each separate local taxing authority for whic	
6	sales and use taxes were collected and remitted pursuant to this Section. The repo	
7	shall include the name, address, and account number of each person from whom t	
8	secretary has collected a tax payment, or to whom he has made a refund payment or	
9	credit, during the quarter covered by the report.	
10	(2) Upon the request of a local taxing authority, the secretary shall make an	
11	additional quarterly report to the taxing authority that includes the amount of tax due	
12	from each person identified by the secretary as doing business in the jurisdiction of	
13	the taxing authority who has failed to pay the taxes determined to be due by the	
14	secretary. The additional report shall state whether there has been a partial tax	
15	payment by the delinquent taxpayer and whether the taxpayer is also delinquent in	
16	the payment of state sales and use taxes. The report shall also include an explanation	
17	of any action taken by the secretary to collect the delinquent taxes owed to the taxing	
18	authority.	
19	(3) If the local taxing authority determines that a person doing business in	
20	its jurisdiction is not included in the report, the taxing authority may provide to the	
21	secretary the name and address of the person, and within ninety days of receipt of the	
22	information, the secretary shall send one of the following to the taxing authority:	
23	(a) An explanation as to why the person is not obligated to pay the tax.	
24	(b) A statement that the person is obligated to pay the tax and that the tax is	
25	delinquent.	
26	(c) A statement that the person is obligated to pay the tax, and the amount	
27	of the tax that has been collected and credited to the taxing authority's special	
28	account.	

1	G. The governing authority of a taxing authority may request to investigate
2	the records of the office concerning the collection of the taxes it levies, no more than
3	twice per year. The secretary shall acknowledge and respond to such a request
4	within ten days, and the investigation shall take place no more than twenty days after
5	the date of the secretary's response or at the convenience of the taxing authority,
6	whichever is later. Upon request of the taxing authority or the secretary, the
7	legislative auditor shall, to the degree practicable, provide assistance to the taxing
8	authority in the investigation of the records.
9	H. The collection of all local sales and use taxes collected by the secretary
10	pursuant to the provisions of this Section shall be subject to the provisions of Title
11	47 of the Louisiana Revised Statutes of 1950, with respect to the collection of state
12	sales and use taxes.
13	I. The secretary shall have no duty or authority to in any way administer the
14	levy and enforcement of any tax levied by any local taxing authority. All
15	responsibility for administration and enforcement of sales and use taxes, including
16	audits, and the consideration and payment of refund claims, shall remain with the
17	local taxing authority levying the tax.
18	J. Notwithstanding any provision of law to the contrary, any taxpayer who
19	is aggrieved by an assessment of sales and use tax due made by a local collector
20	under the provisions of this Chapter, or who has a claim for a refund or credit for an
21	overpayment of taxes, may appeal to the Board of Tax Appeals for a redetermination
22	of the assessment or a determination of the alleged overpayment. The appeal shall
23	be made in accordance with the provisions of Chapter 17 of Subtitle II of Title 47 of
24	the Louisiana Revised Statutes of 1950.
25	* * *
26	§337.22. Sales and use tax returns
27	* * *

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1	E. Beginning July 1, 2017, the sales and use tax return for the payment of
2	sales and use taxes levied by a local taxing authority shall be prescribed by the
3	secretary pursuant to the authority established in R.S. 47:337.16.
4	§337.23. Uniform electronic local return and remittance system; official record of
5	tax rates, and exemptions; filing and remittance of local sales and use taxes;
6	penalties for violations; state central collection
7	* * *
8	L. Beginning July 1, 2017, the secretary shall be responsible for the
9	collection of any sales and use tax levied by a local taxing authority in Louisiana.
10	The tax return and remittance system to be employed by the secretary shall reflect
11	the requirements of this Section to the greatest degree practicable, and shall be
12	established pursuant to regulation and to administrative law promulgated in
13	accordance with the Administrative Procedure Act.
14	* * *
15	§337.25. Authority of <u>local</u> collectors to sue
16	Each local collector of each taxing authority of this state, who is charged by
17	law with the duty of collecting a tax as disbursed by the state, shall be the proper
18	party to bring suits in his official capacity for the collection of such taxes on behalf
19	of a local taxing authority.
20	* * *
21	§337.64. Alternative remedy for dealers
22	A. Any taxpayer who has received a notice of assessment for sales and use
23	taxes from any <u>local</u> collector or <u>a local</u> taxing authority and whose remedy is to
24	make a payment under protest may in lieu thereof comply with the alternative
25	provisions of this Section, rather than making a payment under protest.
26	* * *
27	§337.80. Interest on refunds or credits
28	A. Each <u>local</u> collector shall compute on all refunds or credits and allow
29	interest as part of the refund or credit as follows:

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2

Section 2. R.S. 47:337.13, and 337.14 are hereby repealed in their entirety.

3 Section 3. This Act shall take effect and become operative on January 1, 2017, if and

4 when the proposed amendment of Article VII of the Constitution of Louisiana contained in

5 the Act which originated as House Bill No. _____ of this 2016 Regular Session of the

6 Legislature is adopted at a statewide election and becomes effective.

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 825 Original	2016 Regular Session	Connick
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Abstract: Transfers the responsibility for the collection of local sales and use taxes to the secretary of the Dept. of Revenue beginning July 1, 2017, with the enforcement and administration of local sales and use tax to remain with the local tax collector.

<u>Present constitution</u> authorizes local governments and other political subdivisions to levy and collect sales and use taxes. Each parish is required to have a single tax collector or single collection commission for all taxing authorities in the parish.

<u>Present law</u> authorizes the secretary of the Dept. of Revenue ("secretary") to contract with the governing authority of a local taxing authority ("taxing authority"), at the request of the authority, to collect and enforce the collection of its sales and use taxes and related penalty, interest, or other charges.

<u>Proposed law</u> changes <u>present law</u> by requiring that all sales and use taxes levied by any taxing authority in the state shall be collected by the secretary, effective July 1, 2017. The secretary is required to adopt rules and regulations and to prescribe forms for the collection of all such taxes.

<u>Proposed law</u> requires the establishment of a program for the collection and distribution of local sales and use taxes ("non-state tax proceeds"), to include the designation of specific staff within the department with the primary responsibility of ensuring the prompt collection and remittance of non-state tax proceeds. A staff member shall be available every day of the year, 24 hours per day, and shall provide for and maintain a system which allows for the sharing of real time data on the collection of the taxes for the benefit of the local taxing authorities for whom the taxes are collected.

<u>Proposed law</u> provides that the non-state tax proceeds shall be transmitted to each respective local collector as follows: taxes collected by electronic means shall be transmitted within four days of receipt, and taxes collected by check shall be transmitted within 20 days of receipt. The state treasurer and the secretary shall determine the method for accounting and distribution of non-state tax proceeds, which monies shall not be considered state monies and shall not be subject to appropriation.

<u>Proposed law</u> provides that the distribution of the non-state tax proceeds shall be conducted without the need for an appropriation. The secretary is required to deduct an amount not greater than one-half of one percent of the taxes collected as compensation for the collection service and to provide for continued support of the staff assigned to this function. The fee

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to be charged for collection on behalf of each taxing authority shall be determined by agreement of the secretary and the respective taxing authority.

<u>Proposed law</u> provides that secretary shall have no duty or authority to in any way administer the levy and enforcement of any tax levied by any local taxing authority. Further, all responsibility for administration and enforcement of sales and use taxes, including the consideration and payment of refund claims, shall remain with the local taxing authority levying the tax.

<u>Proposed law</u> requires the single collector in each parish, by Feb. 1, 2017, to provide the secretary copies of all local ordinances affecting sales and use taxes imposed in the parish. Further, a local taxing authority levying a sales and use tax shall notify the secretary within 10 days after approval, and no later than 75 days prior to the effective date of, any action concerning a new tax or the imposition of an existing tax.

<u>Proposed law</u> requires the secretary to prepare a monthly reconciliation of the account for each parish, which shall provide detailed information regarding the amounts of tax collected and remitted to the local collector.

<u>Proposed law</u> requires the secretary to provide a quarterly report of taxes collected and the cost of collection to each taxing authority. A taxing authority is required to report to the secretary the names of persons it determines who are doing business in the jurisdiction of the taxing authority which are not included in the quarterly report.

<u>Proposed law</u> authorizes a taxing authority to request an additional report of persons doing business in the jurisdiction of the taxing authority who have failed to pay taxes due, which shall include information regarding partial payments, delinquent taxes, and steps taken to collect the tax due, and provides for the information to be included in the secretary's report.

<u>Proposed</u> law provides that the governing authority of a taxing authority may request to investigate the records of the office concerning the collection of the taxes it levies, no more than twice per year. The secretary is required to acknowledge the request and respond within 10 days. The investigation may occur no more than 20 days after the date of the secretary's response or at the convenience of the taxing authority, whichever is later. Upon request of the taxing authority or the secretary, the legislative auditor is required, to the degree practicable, to provide assistance to the taxing authority in the investigation of the records.

<u>Proposed law</u> provides that the collection by the secretary of sales and use taxes levied by a taxing authority is subject to the same provisions as state sales and use taxes regarding the collection of taxes.

<u>Present law</u> provides that each local collector of each taxing authority of this state, who is charged by law with the duty of collecting a tax, shall be the proper party to bring suits in his official capacity for the collection of taxes.

Proposed law retains present law.

<u>Proposed law</u> redefines the designation of "collector", defines "local collector" and "department", and clarifies provisions specific to local collectors in various places in the Uniform Local Sales Tax Code to conform to collection of taxes by the secretary rather than the various single collectors for each parish.

<u>Present law</u> requires that any sales and use tax levied by taxing authorities located within a single parish may be collected by a single tax collector for that parish and provides for contract collection agreements and joint sales and use tax commissions as mechanisms for collection of local sales and use taxes.

Proposed law repeals present law.

<u>Present law</u> provides that local sales and use taxes shall be collected by a central collection commission in those parishes where a single collector has not been established by July 1, 1992, and provides for the composition and authority of the collection commission.

Proposed law repeals present law.

Effective Jan. 1, 2017, if the proposed amendment of Const. Art. VII, §3(C) contained in the Act which originated as House Bill No. _____ of this 2017 R.S. of the Legislature is adopted at the statewide election to be held on Nov. 8, 2017, and becomes effective.

(Amends R.S. 47:337.6(A), 337.16, 337.25, 337.64(A), and 337.80(A)(intro. para.); Adds R.S. 47:337.22(E) and 337.23(L); Repeals R.S. 47:337.13 and 337.14)