

HOUSE COMMITTEE AMENDMENTS

2016 Regular Session

Substitute for Original House Bill No. 825 by Representative Connick as proposed by the House Committee on Ways and Means

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 47:301(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b) and (d), 337.81(A)(1), 337.92(1), and 1407(3), and to enact R.S. 47:337.87(C)(1)(d) and 337.102, relative to local sales and use tax; to establish the Louisiana Uniform Local Sales Tax Board as a political subdivision of the state for purposes of uniformity and efficiency of imposition, collection, and administration of local sales and use taxes; to provide for membership of the board; to provide for powers and duties of the board; to authorize the imposition of a fee; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:301(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b) and (d), 337.81(A)(1), 337.92(1), and 1407(3) are hereby amended and reenacted and R.S. 47:337.87(C)(1)(d), and 337.102 are hereby enacted to read as follows:

§302. Imposition of tax

* * *

K. An additional tax shall be levied as follows:

* * *

(6) The taxes levied under this Subsection shall be collected by the Department of Revenue, advised by ~~a sales and use tax commission consisting of nine members appointed as follows: two members appointed by the Louisiana Municipal Association; two members appointed by the Louisiana School Boards Association; two members appointed by the Police Jury Association of Louisiana; two members appointed by the Louisiana Sheriffs' Association; and one member appointed by the Louisiana Association of Tax Administrators~~ the Louisiana Uniform Local Sales Tax Board. The secretary shall assess a collection fee, not to exceed one percent of the proceeds of the tax, as reimbursement for the actual cost

of collection of the tax. The department shall keep the ~~commission board~~ informed on a regular basis of the collection and distribution of the taxes collected, and the ~~commission board~~ shall receive a copy of the executive budget submission of the Local Tax Division of the Board of Tax Appeals.

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§337.2. Intent; application and interpretation of Chapter

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

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

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

* * *

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

A. The secretary of the Department of Revenue, after consultation with representatives of the ~~Louisiana Municipal Association, the Louisiana Police Jury Association, the Louisiana School Boards Association, and the Louisiana Association of Tax Administrators~~ Louisiana Uniform Local Sales Tax Board created by R.S. 47:337.102, is hereby authorized and directed to promulgate rules, pursuant to the enforcement of R.S. 47:306(D). Such rules shall also apply to R.S. 47:337.18(C). The municipal and parish permitting agencies of each parish as specified in R.S. 47:306(D)(2)(a) and R.S. 47:337.18(C)(2)(a) shall comply with rules authorized by this Subsection within six months of the effective date of such rules.

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

* * *

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

* * *

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

* * *

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

* * *

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

A.(1) If the collector fails to act on a properly filed claim for refund or credit within one year from the date received by him or the Louisiana Uniform Local Sales

Tax Board or if the collector denies the claim in whole or in part, the taxpayer claiming such refund or credit may within thirty days of the notice of disallowance of the claim request a hearing with the collector for redetermination. The collector shall render a decision within thirty days of the request by the taxpayer.

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§337.87. Post-session update procedure

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

* * *

(d) The Louisiana Uniform Local Sales Tax Board.

* * *

§337.92. Definitions

As used in this Part:

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

* * *

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

A. Creation of the board. The Louisiana Uniform Local Sales Tax Board, hereinafter referred to in this Section as "board", is hereby created as a political subdivision of the state, it shall be subject to fiscal controls and legislative audit in the same manner as any local political subdivision, it shall not be considered a budget unit of the State. The domicile of the board shall be East Baton Rouge Parish. The board, however, may meet and conduct business at other locations within the state of Louisiana as it may from time to time determine.

B. Board members. (1) The board shall consist of eight members, as follows:

- (a) The executive director of the Louisiana Municipal Association.
 - (b) The executive director of the Louisiana School Boards Association.
 - (c) The executive director of the Police Jury Association of Louisiana.
 - (d) The executive director of the Louisiana Sheriff's Association.
 - (e) The head of a single parish collector's office appointed by the Louisiana Municipal Association.
 - (f) The head of a single parish collector's office appointed by the Louisiana School Boards Association.
 - (g) The head of a single parish collector's office appointed by the Police Jury Association of Louisiana.
 - (h) The head of a single parish collector's office appointed by the Louisiana Sheriff's Association.
- (2) The board members established in Subparagraphs (a) through (d) of Paragraph (1) of this Subsection shall be permanent members of the board.
- (3) The board member appointments provided for in Subparagraphs (e) through (h) of Paragraph (1) of this Subsection shall be made no later than August 31, 2016. Employees, legal counsel, and vendors of a single parish collector's office shall not be eligible for appointment. The members appointed pursuant to Subparagraphs (e) through (h) of Paragraph (1) of this Subsection shall be appointed for fixed terms of five years which shall commence when the initial board member's term ends; however, for the initial appointments to be made in 2016, the terms of these board members shall be from two to five years, to be determined by lot at the first meeting of the board. The appointing authorities are encouraged to coordinate among themselves to appoint a board that is representative of the diverse regions of the state and to ensure that no two members represent a single parish.
- (4) The board shall hold its first meeting no later than October 15, 2016, at which time they shall elect a chairman, vice-chairman, and such other officers as determined necessary at the first meeting.
- (5) Board members shall serve without compensation, but may be reimbursed for reasonable expenses incurred in the performance of their duties.

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

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

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

(3) Enter into agreements with local tax collectors.

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

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

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

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

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

D. Issuance of policy advice.

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

(2) If a request for a private letter ruling involves a single local local tax collector, the tax collector may elect to withdraw from the private letter ruling

process provided for in this Subsection by notifying the board and the requesting party within ten days of receipt of the request for the private letter ruling.

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

E. Voluntary disclosure program. The board shall by rule establish a uniform voluntary disclosure program for taxpayers seeking relief from penalties in cases where a liability to more than one local sales and use tax collector is owed. The board shall accept applications from taxpayers seeking to participate in the program and may issue a recommendation for the waiver of penalties for taxpayers who have complied with program requirements, including full payment of taxes and interest. The recommendation shall be binding on local tax collectors.

F. Refunds. The board shall establish uniform standards and forms for the purposes of refund requests for all local sales and use taxes. The form shall include notice to taxpayers that a refund request denial is appealed to the Board of Tax Appeals, and shall provide specific information as to deadlines and other requirements as provided by law. The board shall serve as the central filing agency for all refund claims. The filing of a refund claim with the board shall suspend the running of prescription. The board shall notify the respective tax collector within fifteen days of receipt of a refund request.

G. Multi-parish audits. The board shall develop a coordinated multi-parish audit process which may be requested by a taxpayer having a location in the state and registered to file and remit local sales and use taxes pursuant to a local ordinance

in at least three parishes. The audit process shall be implemented through a pilot program that shall be concluded no later than June 30, 2018, after which time the audit process shall be available statewide.

H. Funding. (1) The board shall be funded through the imposition of a fee to be payable monthly from the collections of local sales and use taxes on motor vehicles, beginning November 1, 2016. The fee shall be considered a cost of collection and be deducted by the state and transmitted to the board prior to distribution of tax collections to local taxing authorities. The fee shall be in addition to any fee imposed by the office of motor vehicles, and shall not exceed:

(a) In Fiscal Year 2016-2017, one-fifth of one percent of the collections.

(b) In Fiscal Year 2017-2018, one-third of one percent of the collections.

(c) In Fiscal Year 2018-2019, one-half of one percent of the collections.

(2) The rate of the fee to be imposed each year shall be determined by the board based on its prior year's actual operating expenses and any specific requirements for major expenditures in the coming year. For this purpose, the board shall prepare an annual reconciliation of its expenditures and monthly fees, which reconciliation shall be transmitted to the head of each local sales and use tax collector by June 1st. The reconciliation shall be used to determine the fee rate for the prospective year to ensure that the fee generates the actual amount necessary for the board to fulfill its duties under the law.

I. The board, after consultation with the Board of Directors of the Louisiana Association of Tax Administrators, hereinafter referred to in this Section as "LATA", is hereby authorized and directed to promulgate rules and regulations pursuant to R.S. 47:337.94. The board shall request a non-binding recommendation from LATA prior to the issuance of a rule or regulation. The recommendation shall be submitted to the board within thirty days of the request, and a failure on the part of LATA to provide a recommendation shall in no way preclude the promulgation of a rule or regulation by the board.

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§1407. Jurisdiction of the board

The jurisdiction of the board shall extend to the following:

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(3) All matters related to other jurisdiction otherwise provided by law, including rules to seek uniformity of interpretation of common sales and use tax law or local sales and use tax law, as provided in R.S. 47:337.101(A)(2), or petitions concerning the validity of a collector's rules, regulations, or private letter rulings, as provided in R.S. 47:337.102(B)(3)(b).

* * *

Section 2. The Louisiana State Law Institute is authorized and directed to revise R.S. 47:302(K)(6) by changing all references to "sales and use tax commission" to the "Louisiana Uniform Local Sales Tax Board" and all references to "commission" to "board".

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 Draft

2016 Regular Session

Abstract: Creates the Louisiana Uniform Local Sales and Use Tax Board as a political subdivision of the state for purposes of uniformity and efficiency concerning the collection and administration of local sales and use taxes.

Proposed law creates the Louisiana Uniform Local Sales Tax Board, hereinafter "board", as a political subdivision of the state. The domicile of the board is East Baton Rouge Parish but the board may meet and conduct business at other locations within the state from time to time determine.

Proposed law provides for the membership of the board as follows:

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

- (8) The head of a single parish collector's office appointed by the La. Sheriff's Association.

Proposed law provides for the terms of and the deadlines for appointment of the members. Employees, legal counsel, and vendors of a single parish collector's office are ineligible for these appointments.

Proposed law requires that the board hold its first meeting no later than Oct. 15, 2016, at which time the officers shall be elected.

Proposed law prohibits board members from receiving compensation; however members may be reimbursed for reasonable expenses incurred in the performance of their duties.

Proposed law provides for the powers and duties of the board, which include:

- (1) Support and advice for local sales and use tax collectors concerning the imposition, collection, and administration of local sales and use taxes.
- (2) Agreements with local tax collectors and contracts for the services of legal counsel, analysts, auditors, appraisers, and witnesses, as well as contracts with any agency or department of the state or any state or local political subdivision.
- (3) Issuance of policy advice on matters concerning the imposition, collection, and administration of local sales and use tax.
- (4) Prescription of uniform forms and model procedures to be used by local sales and use tax collectors.
- (5) Procurement of computer software and equipment for the collection and administration of local sales and use taxes.

Proposed law authorizes the board to issue policy advice in the form of a private letter ruling intended to provide guidance to taxpayers or dealers with respect to any local sales and use tax issue. Proposed law establishes the procedure for a request for and issuance of a private letter ruling. A local tax collector may elect to withdraw from the private letter ruling process established under proposed law in instances where a request for a ruling involves on that collector. A private letter ruling issued by the board shall bind the decisions of a local tax collector if that collector had been notified of the request for the ruling pursuant to proposed law. A local tax collector may seek a review of a private letter ruling by filing a petition with the Local Tax Division of the Board of Tax Appeals.

Proposed law authorizes the board to establish a uniform voluntary disclosure program for taxpayers seeking relief from penalties in cases where they have a liability to more than one local sales and use tax collector. The board shall accept applications from taxpayers seeking to participate in the program and may issue a recommendation for the waiver of penalties for taxpayers who have complied with program requirements, including full payment of taxes and interest. The recommendation shall be binding on local tax collectors.

Proposed law authorizes the board to establish uniform standards and forms for the purposes of refund requests for all local sales and use taxes. The board shall serve as the central filing agency for all refund claims, and the board shall notify the respective tax collector within 15 days of receipt of a refund request. The filing of a refund claim with the board shall suspend the running of prescription.

Proposed law requires that the board develop a coordinated multi-parish audit process which may be requested by a taxpayer having a location in La. and that is registered to file and remit local sales and use taxes in at least three parishes. The audit process shall be implemented through a pilot program that shall be concluded no later than June 30, 2018, after which time the audit process shall be available statewide.

Proposed law requires that the board be funded through the imposition of a fee payable monthly from the collections of local sales and use taxes on motor vehicles, beginning Nov. 1, 2016. The fee shall be deducted by the state and transmitted to the board prior to distribution of tax collections to local taxing authorities. The fee shall be in addition to any fee imposed by the office of motor vehicles, and shall not exceed:

- (1) In Fiscal Year 2016-2017, one-fifth of 1% of the collections.
- (2) In Fiscal Year 2017-2018, one-third of 1% of the collections.
- (3) In Fiscal Year 2018-2019, one-half of 1% of the collections.

Proposed law requires the rate of the fee to be imposed each year to be determined based on the board's prior year's actual operating expenses and any specific requirements for major expenditures in the coming year. For this purpose, the board shall prepare an annual reconciliation of its expenditures and monthly fees, which reconciliation shall be transmitted to the head of each local sales and use tax collector by June 1st. The reconciliation shall be used to determine the fee rate for the prospective year to ensure that the fee generates the actual amount necessary for the board to fulfill its duties under the law.

Proposed law provides with respect to rulemaking by the board.

Present law establishes a sales and use tax commission comprised of members appointed by the La. Municipal Association, the La. School Board Association, the Policy Jury Association, the La. Sheriff's Association, and the La. Association of Tax Administrators. The secretary of the Dept. of Revenue is required to consult with the commission concerning the distribution of state sales and use taxes that are collected on remote sales on the behalf of local taxing authorities.

Proposed law changes present law by requiring that the secretary consult with the board rather than the commission.

Present law establishes the La. Association of Tax Administrators as a policy making organization for purposes of the Uniform Local Sales Tax Law.

Proposed law changes present law by changing the designated policy-making organization for purposes of the Uniform Local Sales Tax Law from the La. Association of Tax Administrators to the board.

Present law provides with respect to appeals from a local tax collector's disallowance of a sales and use tax refund claim, particularly with regard to the time period within which the collector is required to act on the claim.

Proposed law retains present law and adds the same requirements for the filing of a refund claim with the board.

(Amends R.S. 47:301(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b) and (d), 337.81(A)(1), 337.92(1), and 1407(3); Adds R.S. 47:337.87(C)(1)(d) and 337.102)