

2017 Regular Session

HOUSE BILL NO. 601

BY REPRESENTATIVE STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES-USE, LOCAL: Establishes the Louisiana Uniform Local Sales Tax Board and the Louisiana Sales and Use Tax Commission for Remote Sellers

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 taxes relative to remote sellers; to provide for membership of the  
16 commission; to provide for powers and duties 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,

1 duties, functions, and responsibilities as provided for agencies transferred in  
2 accordance with the provisions of R.S. 36:801.1. The secretary and the Department  
3 of Revenue shall in no way interfere with, review, or change the decisions or  
4 operations of the agency so placed.

5 \* \* \*

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

11 §302. Imposition of tax

12 \* \* \*

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

14 \* \* \*

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

28 \* \* \*

1 §337.2. Intent; application and interpretation of Chapter

2 \* \* \*

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

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

8 (a) "Board" means the ~~board of directors of the Louisiana Association of Tax~~  
9 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board created by R.S.  
10 47:337.102.

11 \* \* \*

12 §337.19. Withholding of state funds; assessment and collection standards

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

22 \* \* \*

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

26 \* \* \*

27 B.(1) The system by which such taxpayers file electronically and pay their  
28 taxes and by which the information provided for in Subsection I is to be posted on  
29 the internet shall be established, managed, and supervised by the secretary of the

1 Department of Revenue. The Uniform Electronic Local Return and Remittance  
2 Advisory Committee shall provide advice and may make enforceable  
3 recommendations to the secretary for his consideration with regard to the design,  
4 implementation, and operation of the system in the manner provided for by this  
5 Section. The advisory committee is hereby created within the Department of  
6 Revenue and shall be composed of the following members:

7 \* \* \*

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

15 \* \* \*

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

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

25 \* \* \*

26 §337.49. Protest to collector's determination of tax due

27 A.(1) The taxpayer, within fifteen calendar days from the date of the notice  
28 provided in R.S. 47:337.48(A) or within thirty calendar days from the date of the  
29 notice provided in R.S. 47:337.48(B), may protest thereto. This protest must be in

1 writing and should fully disclose the reasons, together with facts and figures in  
2 substantiation thereof, for objecting to the collector's determination. The collector  
3 shall consider the protest, and shall grant a hearing thereon, before making a final  
4 determination of tax, penalty, and interest due.

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

12 \* \* \*

13 §337.81. Appeals from the collector's disallowance of refund claim

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

20 \* \* \*

21 §337.86. Credit for taxes paid

22 \* \* \*  
23 E.

24 \* \* \*

25 (3) Optional concursus proceeding.

26 (a) When a taxpayer or dealer has received a formal notice of assessment  
27 from two or more Louisiana local collectors having a competing or conflicting claim  
28 to sales or use tax on a transaction, the taxpayer or dealer is hereby authorized to file  
29 a concursus proceeding before the Local Tax Division of the Louisiana Board of Tax

1 Appeals, hereinafter referred to as "board". If a concursus is filed, the taxpayer or  
 2 dealer, as applicable, shall pay the amount of sales tax collected or, if no tax was  
 3 collected, the amount of tax due at the highest applicable rate, together with penalty  
 4 and interest, into the Escrow Account for the Registry of the Board of Tax Appeals.  
 5 The proceeding shall name as defendants all parishes that are parties to the dispute.  
 6 The filing of a concursus proceeding in compliance with the provisions of this  
 7 Paragraph shall prevent collection of assessment from the taxpayer or dealer. No  
 8 additional interest or penalties shall accrue against the taxpayer on the amount of  
 9 payment made pursuant to this Paragraph following the date of such payment. The  
 10 board's judgment may order the tax payment held in escrow to be disbursed to the  
 11 proper parish under the law and ordinances applicable to the case, and may also  
 12 order the payment of any refund due to the taxpayer or dealer.

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

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

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

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

28 §337.87. Post-session update procedure

29 \* \* \*

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

4 \* \* \*

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

6 \* \* \*

7 §337.92. Definitions

8 As used in this Part:

9 (1) "Board" means the ~~board of directors of the Louisiana Association of Tax~~  
10 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board as defined in R.S.  
11 47:337.2 ~~which~~ that is required to develop rules and regulations pursuant to Chapter  
12 2-D of the Uniform Local Sales Tax Code unless otherwise specified.

13 \* \* \*

14 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership;  
15 powers and duties

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

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

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

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

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

29 (d) The executive director of the Louisiana Sheriff's Association.

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

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

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

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

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

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

20          (4) A member of the board may appoint a designee to attend board meetings  
21          and vote by proxy on his behalf, the procedure for which shall be determined by rule  
22          of the board. A person eligible to serve as a designee shall be either a full-time  
23          employee of an appointing authority or the head of a single parish collector's office.

24          (5) The board shall hold its organizational meeting no later than October 15,  
25          2017, at which time it shall elect a chairman, vice chairman, and such other officers  
26          as determined necessary at the first meeting.

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

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



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

4           (2) Promulgate rules and regulations in accordance with Part H of Chapter  
5           2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

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

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

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

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

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

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

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

20          D. Issuance of policy advice.

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

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

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

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

25           F. Voluntary disclosure program. The board shall promulgate rules pursuant  
26           to the Administrative Procedure Act to establish a uniform voluntary disclosure  
27           program for taxpayers seeking relief from penalties in cases where a liability to more  
28           than one local sales and use tax collector is owed. The board shall accept  
29           applications from taxpayers seeking to participate in the program and may issue a

1 recommendation for the waiver of penalties for taxpayers who have complied with  
2 program requirements, including full payment of taxes and interest. This  
3 recommendation shall be binding on local tax collectors absent fraud, material  
4 misrepresentation, or any such misrepresentation of the facts by the taxpayer.

5 G. Refunds. The board shall establish uniform standards and forms for the  
6 purpose of refund requests for all local sales and use taxes. The refund denial form  
7 shall include notice to taxpayers that a refund request denial is appealable to the  
8 Board of Tax Appeals, and shall provide specific information as to deadlines and  
9 other requirements as provided by law for such an appeal. The board shall serve as  
10 the central filing agency for all refund claims involving two or more Louisiana  
11 parishes having transactions similar in fact. The filing of a refund claim with the  
12 board shall suspend the running of prescription. The board shall notify the respective  
13 tax collector within fifteen days of receipt of a refund request. The function of the  
14 board with respect to refund requests shall be ministerial in nature and the board  
15 shall have no authority over the approval or denial of a request.

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

22 I. Funding. (1) The board shall be funded through a dedication of a  
23 percentage of the total statewide collections of local sales and use tax on motor  
24 vehicles, in accordance with the limitations provided in this Paragraph and the  
25 budgetary policy as provided in Paragraph (2) of this Subsection. Monies shall be  
26 payable monthly from the current collections of the tax. The dedication shall be  
27 considered a cost of collection and shall be deducted by the state and disbursed to the  
28 board prior to distribution of tax collections to local taxing authorities. The  
29 dedication shall be in addition to any fee imposed by the office of motor vehicles for

1 the collection of the local sales and use tax on motor vehicles, and the total amount  
2 to be disbursed to the board from this dedication in any fiscal year shall not exceed:

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

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

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

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

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

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

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

2 \* \* \*

3 CHAPTER 2-E. LOUISIANA SALES AND USE TAX COMMISSION

4 FOR REMOTE SELLERS

5 §339. Louisiana Sales and Use Tax Commission for Remote Sellers

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

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

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

22 (a) Provide the minimum tax administration, collection, and payment  
23 requirements required by federal law with respect to the collection and remittance  
24 of sales and use tax imposed on remote sales.

25 (b) Provide at no expense to remote sellers and their agents software  
26 programs which may include but not be limited to Parish E-File or some other  
27 electronic system or method to facilitate the filing, reporting, payment, and  
28 remittance of state and local sales and use taxes to the appropriate local Louisiana  
29 jurisdictions to which remote sales are sourced.

1           (c) Maintain a free Internet database that provides information for the use of  
2           remote sellers regarding the taxability of products and services sourced to Louisiana,  
3           along with any product and service exclusions and exemptions from sales and use  
4           taxes, state and local jurisdiction tax rates, and territorial boundaries.

5           (d) Provide for, in accordance with federal law, software for remote sellers  
6           that calculates the sales and use tax due on each transaction at the time the  
7           transaction is completed, that files sales and use tax returns, and that is maintained  
8           to reflect changes in rates or bases.

9           (e) Establish a fiscal agent solely for the purpose of remote seller  
10           remittances.

11           (f) Provide remote sellers and certified software providers within thirty days,  
12           or as required by federal law, notice of a rate change by the state or any local taxing  
13           jurisdiction in the state, and relieve remote sellers and certified software sellers who  
14           collect taxes at the immediately preceding effect rate during the thirty-day notice  
15           period if the required notice is not provided from liability as a result thereof.

16           (g) Provide a procedure for persons to be approved as certified software  
17           providers.

18           (h) Provide to remote sellers, at no cost to them, an electronic sales and use  
19           tax remote sales tax return format for use in reporting and remitting state and local  
20           sales taxes on remote sales sourced to Louisiana.

21           (i) Provide an electronic means for remote sellers to determine the  
22           appropriate local taxing authority to receive the tax on remote sales sourced to  
23           Louisiana, the name and contact information of the single sales tax collector, and the  
24           current rate of tax applicable to such sales.

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

27           (1) The terms "certified software provider", "remote sale", "remote seller"  
28           and "sourced" shall have the meanings as defined by federal law.

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

3           (3) "Executive director" means the executive director of the commission.  
4           The executive director of the Louisiana Uniform Local Sales Tax Board shall serve  
5           ex-officio as executive director of the commission unless otherwise directed by the  
6           commission.

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

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

16          (6) The term "non-remote sale" means a sale that is not a remote sale.

17          (7) The term "non-remote seller" means a seller that is not a remote seller.

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

21          (9) "Sales and use taxes" and "taxes" shall mean the sales and use taxes  
22          levied by the state of Louisiana under the provisions of Title 47 of the Louisiana  
23          Revised Statutes of 1950 and the sales and use taxes levied by local taxing  
24          authorities in Louisiana under the provisions of the Constitution of Louisiana,  
25          statutory laws authorizing the imposition of such taxes, and local sales and use tax  
26          ordinances.

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

2                Powers

3                A. The duties of the commission shall be exercised and discharged under the  
4                supervision and direction of a commission with voting power and a non-voting  
5                executive director, all of whom shall be appointed and shall serve as provided in this  
6                Section:

7                B. The commission shall be comprised of eight voting commissioners as  
8                follows:

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

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

12                      (3) The members of the Louisiana Uniform Local Sales Tax Board appointed  
13                      as provided in R.S. 47:337.102(B)(1)(e) through (h).

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

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

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

25                      E.(1) The commission shall select and employ an executive director who  
26                      shall serve at the pleasure of the commission. The executive director, under and  
27                      subject to the direct supervision and control of the commission, shall direct the  
28                      day-to-day administration and enforcement of all laws, rules, policies, and  
29                      regulations which it is the duty of the commission to administer and enforce. The



1 executive director shall receive compensation and benefits as may be determined and  
2 fixed by the commission. The executive director may employ professional and  
3 administrative staff and set their rate of compensation and benefits, plus necessary  
4 expenses incurred in performing their duties, as may be approved by the commission.  
5 The commission may enter into a joint services agreement with any other agency,  
6 board, or political subdivision concerning the performance of its functions.

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

13 (3) The commission and its operations shall be funded by an amount equal  
14 to actual expenses incurred which amount shall not exceed one percent of the total  
15 amount of state and local sales and use tax collected on remote sales by the  
16 commission. This amount shall be retained by the commission on a monthly basis  
17 from current collections of state and local sales tax on remote sales as collected by  
18 the commission prior to monthly distribution to the state and local collectors.

19 F. The commission shall develop rules and procedures in accordance with  
20 the Administrative Procedure Act governing its internal operations and dealer and  
21 taxpayer dealings with the commission.

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

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

26 (2) To provide a free Web-based portal as the single filing point for both  
27 local and state sales and use tax returns for remote sales and to serve as the central,  
28 single agency to which remote sellers shall make state and local sales and use tax  
29 remittances.

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

3           (4) To serve as the single state of Louisiana agency to represent both state  
4           and local taxing authorities in taking appropriate action to enable Louisiana to  
5           participate in programs designed to allow Louisiana to more efficiently enforce and  
6           collect state and local sales and use taxes on sales made by remote sellers.

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

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

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

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

16          (9) With the consent of the affected local taxing authority, to issue notices  
17          of intent to assess, notices of assessments, enforce collection of local taxes by  
18          distrain and sale, and institute summary proceedings or ordinary proceedings for  
19          collection of local taxes.

20          (10) To sue and be sued.

21          H. Nothing in this Section shall be construed to:

22          (1) 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          (2) 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          (3) Create, repeal, or amend any local tax exclusions or exemptions.

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

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

4           (6) Require local taxing authorities to make refunds, give tax credit, waive  
5           penalties, or waive audit costs.

6           (7) Repeal or amend any provisions of any local tax ordinances.

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

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

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

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

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

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

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

24   \*     \*     \*

25         §1407. Jurisdiction of the board

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

27   \*     \*     \*

28                         (3) All matters related to other jurisdiction otherwise provided by law,  
29                         including rules to seek uniformity of interpretation of common sales and use tax law

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 or local sales and use tax law, as provided in R.S. 47:337.101(A)(2), and petitions  
2 concerning the validity of a collector's rules, regulations, or private letter rulings, as  
3 provided in R.S. 47:337.102.

4 \* \* \*

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

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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)]

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HB 601 Engrossed

2017 Regular Session

Stokes

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

**La. Uniform Local Sales Tax Board**

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

- (1) Support and advise local tax collectors concerning collection and administration of local taxes.
- (2) Promulgate rules and regulations pursuant to the Administrative Procedure Act relating to local sales and use tax, specifically including rules for a voluntary disclosure program and a uniform refund request and approval process.
- (3) Enter into agreements with local tax collectors.
- (4) Enter into contracts for the services of legal counsel, analysts, auditors, appraisers, and witnesses, as well as any agency or department of the state or any state or local political subdivision.
- (5) Prescribe uniform forms and model procedures to be used by local sales and use tax collectors.
- (6) Procure the development of computer software and equipment for the collection and administration of local sales and use taxes.
- (7) Employ an executive director, and any necessary agents, assistants, auditors, clerks, inspectors, investigators, or other experts and employees.

- (8) Develop a coordinated multi-parish audit process.

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

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

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

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

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

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

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

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

Proposed law authorizes the board to transfer monies to assist in funding the Local Tax Division of the Board of Tax Appeals in the event that state use tax collections under R.S. 47:302(K) are insufficient to fund the dedication for the operations of the Local Tax Division made under R.S. 47:302(K)(7).

Present law provides that a single transaction shall only be taxed once and provides for a process for requesting a refund in the event that taxes collected are remitted to the wrong taxing jurisdiction.

Proposed law creates an optional concursus process in which a dealer or taxpayer can remit the amount of tax to the Local Tax Division of the Board of Tax Appeals for deposit into their escrow account and request a determination by the board of the proper taxing jurisdiction.

#### **La. Sales and Use Tax Commission for Remote Sellers**

Proposed law creates the La. Sales and Use Tax Commission for Remote Sellers as an independent agency within the Dept. of Revenue for the administration and collection of state and local sales and use taxes related to remote sales, and for the promotion of uniformity and simplicity in sales and use tax compliance for remote sellers.

Proposed law provides that the commission serve as the single entity in La. required under any federal law that may require remote sellers to collect and remit sales and use tax on La. sales. To accomplish this, activities of the commission shall include:

- (1) Establishing 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.
- (2) Providing at no expense to remote sellers, various types of software programs to facilitate the filing, reporting, payment, and remittance of state and local sales and use taxes to the appropriate local La. jurisdictions to which remote sales are sourced.
- (3) Maintaining a free Internet database that provides information to remote sellers regarding the taxability of products and services, exclusions, exemptions, rates, and territorial boundaries.
- (4) If necessary, establishing a fiscal agent solely for the purpose of remote seller remittances.
- (5) Providing a procedure for persons to be approved as certified software providers.

Proposed law provides that the La. Sales and Use Tax Commission for Remote Sellers is to be composed of eight members as follows:

- (1) The secretary of the Dept. of Revenue.
- (2) Three employees of the Dept. of Revenue appointed by the secretary.
- (3) Four appointed members selected to serve on the La. Uniform Local Sales Tax Board.

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

Proposed law requires the commission to employ an executive director to direct the day-to-day operations of the commission and to develop procedures to govern its day-to-day operations in accordance with the Administrative Procedures Act.

Proposed law establishes a method of funding the operations of the commission through a dedication of a percentage of the state and local sales and use taxes collected on remote sales by the commission, not to exceed 1%.

Proposed law provides for the powers and duties of the commission, to include:

- (1) To serve as the single entity within the state responsible for all state and local sales and use tax administration for remote sales sourced to La.

- (2) To provide a free Web-based portal as the single filing point for both local and state sales and use tax returns for remote sales and to serve as the central, single agency to which remote sellers shall make state and local sales and use tax remittances.
- (3) To assign and direct a single audit of remote sellers for the state and all local taxing authorities.
- (4) To conduct administrative hearings as requested by aggrieved remote sellers and render decisions following hearings.
- (5) To require remote sellers to register with the commission.
- (6) To provide to the single tax collector for each parish an annual report of revenues collected and distributed.
- (7) To enter into agreements to waive or suspend prescription of state and local taxes.
- (8) With the consent of the affected local taxing authority, issue notices of intent to assess, notices of assessments, enforce collection of local taxes by distraint and sale, and institute summary proceedings or ordinary proceedings for collection of local taxes.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d), and (e), 337.49, 337.81(A)(1), 337.87(C)(1)(intro. para.), 337.92(1), and 1407(3); Adds R.S. 36:459(A), R.S. 47:337.86(E)(3), 337.87(C)(1)(d), 337.102, 339, and 340)

#### Summary of Amendments Adopted by House

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

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