

2023 Regular Session

HOUSE BILL NO. 558

BY REPRESENTATIVE BEAULLIEU

1 AN ACT

2 To amend and reenact R.S. 47:337.5, 337.23, 337.102(C) and (I)(1) and (2)(a), and
3 340(E)(2) and to enact R.S. 47:337.102(I)(4), relative to the collection and
4 remittance of sales and use taxes; to provide with respect to the duties of the
5 Louisiana Uniform Local Sales Tax Board; to authorize the Louisiana Uniform Local
6 Sales Tax Board to impose a fee on certain collectors; to provide for notice
7 requirements for certain changes in tax, interest, and penalty rates; to require certain
8 collectors to submit certain information to the Louisiana Uniform Local Sales Tax
9 Board; to authorize the Louisiana Sales and Use Tax Commission for Remote Sellers
10 to deduct the amount of unpaid fees from a collector's monthly distribution under
11 certain circumstances; to provide for the responsibilities of the Department of
12 Revenue with respect to the collection and remittance of sales and use taxes; to
13 provide relative to the Uniform Electronic Local Return and Remittance Advisory
14 Committee; to require the board to manage and maintain a uniform electronic local
15 return and remittance system; to require the board to design and implement a single
16 remittance system for state and local sales and use taxes; to provide for the operation
17 of the single remittance system; to provide for requirements and limitations; to
18 provide for the funding of certain technology and programs; to provide for an
19 effective date; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. R.S. 47:337.5, 337.23, 337.102(C) and (I)(1) and (2)(a), and 340(E)(2)
22 are hereby amended and reenacted and R.S. 47:337.102(I)(4) is hereby enacted to read as
23 follows:

1 §337.23. Uniform electronic local return and remittance system; official record of
 2 tax rates and exemptions; filing and remittance of local sales and use taxes;
 3 penalties for violations

4 A.(1) The legislature recognizes both the need to make Louisiana a better
 5 environment in which to do business and the complexities of the existing sales and
 6 use tax system. It is the intention of this Section to provide taxpayers with a simple,
 7 efficient, and cost-effective means of transmitting accurate sales and use tax returns
 8 and remittances to political subdivisions of the state from a central site in the
 9 quickest manner possible.

10 (2) ~~Notwithstanding any other law to the contrary, beginning on the date~~
 11 ~~provided for in Subsection H of this Section, but no later than January 1, 2005, a~~ A
 12 taxpayer may file a sales and use tax return of a taxing authority and remit any tax,
 13 interest, penalty, or other charge due by means of the uniform electronic local return
 14 and remittance system provided for in this Section unless insufficient funds are
 15 appropriated to fund the system ~~as provided for in Subsection J of this Section.~~

16 B.(1) The system by which such taxpayers file electronically and pay their
 17 taxes and by which the information provided for in Subsection ~~F~~ H of this Section is
 18 to be posted on the internet shall be ~~established~~, managed, maintained, and
 19 supervised by the ~~secretary of the Department of Revenue~~ Louisiana Uniform Local
 20 Sales Tax Board, hereinafter referred to in this Section as the "board". The Uniform
 21 Electronic Local Return and Remittance Advisory Committee shall provide advice
 22 and may make enforceable recommendations to the ~~secretary~~ board for his
 23 consideration with regard to the design, implementation, ~~and~~ operation, and
 24 maintenance of the system in the manner provided for by this Section. The advisory
 25 committee is hereby created ~~within the Department of Revenue~~ under the jurisdiction
 26 of the board and shall be composed of the following members:

- 27 (a) The secretary of the Department of Revenue or his designee.
- 28 (b) The chairman of the ~~Louisiana Uniform Local Sales Tax Board~~ board,
- 29 or in the absence of the chairman, the vice chairman of the board, ~~who shall serve as~~
- 30 ~~chair of the advisory committee.~~

1 (c) A member appointed by the governor from a list of three names provided
2 to ~~him~~ by the ~~Louisiana Society of Certified Public Accountants~~ Society of Louisiana
3 Certified Public Accountants, to serve at the pleasure of the governor.

4 (d) ~~The~~ Two members who shall each be the head of a collector's office,
5 appointed by the ~~Louisiana Uniform Local Sales Tax Board~~ board from a list of ~~three~~
6 six names provided by the board of directors of the Louisiana Association of Tax
7 Administrators, to serve for a three-year term.

8 (e) A representative of a business that is required to file sales and use tax
9 returns for multiple collectors in the state, who shall be appointed by the governor
10 from a list of three names provided ~~to him jointly~~ by the Louisiana Retailers
11 Association ~~and the Louisiana Association of Business and Industry~~. The member
12 shall serve at the pleasure of the governor.

13 (f) A representative of a business that is required to file sales and use tax
14 returns for multiple collectors in the state, who shall be appointed by the governor
15 from a list of three names provided by the Louisiana Association of Business and
16 Industry. The member shall serve at the pleasure of the governor.

17 (2) Each appointment by the governor shall be submitted to the Senate for
18 confirmation. All vacancies shall be filled in the same manner that is provided for
19 the original member.

20 (3) The members of the advisory committee shall serve without additional
21 compensation except for their reasonable and necessary expenses related to the
22 performance of their duties as members of the committee, and then only in ~~such~~
23 amounts as is provided by law for state employees.

24 (4) Meetings shall be called by the chair at a time and place to be selected
25 by the chair, or at a time and place provided for upon the written request of three
26 members. Four members of the advisory committee shall be considered a quorum
27 and the committee may make official recommendations and take other official action
28 upon the affirmative vote of four members.

29 (5)(a) If at any time the advisory committee believes the ~~secretary~~ board has
30 taken action contrary to the advice or recommendation of the committee, it may

1 make a written request to the ~~secretary~~ board specifying the advice or
 2 recommendation, the action which the committee believes the ~~secretary~~ board has
 3 taken, and asking ~~him~~ the board to provide written reasons for ~~such~~ the action. The
 4 ~~secretary~~ the chairman of the board shall provide a written answer to the chairman
 5 of the committee within fifteen days or ~~such a~~ longer time as the committee ~~shall~~
 6 ~~allow~~ allows.

7 (b) If, after receiving and considering the written answer of the ~~secretary~~
 8 board, the committee believes it unsatisfactory, the committee may make a written
 9 request to the Senate Committee on Revenue and Fiscal Affairs and the House
 10 Committee on Ways and Means specifying the recommendation and asking the
 11 committees to make it an enforceable recommendation.

12 (c)(i) The request of the advisory committee shall be considered as a
 13 proposed rule or regulation of the ~~Department of Revenue~~ board and shall be
 14 subjected to the same oversight procedure ~~as is set forth~~ provided for in the
 15 Administrative Procedure Act ~~for such rules and regulations~~, except for the need for
 16 publication.

17 (ii) Notwithstanding any other law to the contrary, if the oversight procedure
 18 under the Administrative Procedure Act results in approval of the advisory
 19 committee's request to make its recommendation an enforceable recommendation,
 20 then the advisory committee's recommendation shall be followed by the ~~secretary~~
 21 board.

22 C. The uniform electronic local return and remittance system and the posting
 23 of the information required by Subsection ~~F~~ H of this Section shall be ~~established,~~
 24 managed, maintained, and supervised by the ~~secretary~~ board with the advice of the
 25 advisory committee and the secretary and the system shall include the following:

26 (1)(a) The system shall allow the taxpayer to file a sales and use tax return
 27 that is uniform for each taxing authority except for the following:

- 28 (i) The rate of the taxing authority's tax.
- 29 (ii) The vendor's compensation allowed.

1 (iii) Optional exclusions or exemptions allowed by state sales and use tax
 2 law, adopted by ~~the~~ a local ordinance pursuant to such state law.

3 (iv) Exclusions and exemptions in the local ordinance which were adopted
 4 prior to July 1, 2003, pursuant to state law authorizing ~~such~~ its adoption, but not
 5 allowed as an exclusion or exemption from state sales and use tax.

6 (v) Exclusions and exemptions adopted by local ordinance pursuant to
 7 legislation enacted under Article VI, Section 29(D)(1) of the Constitution of
 8 Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

9 (vi) ~~Penalty, Penalties and interest, or attorney fees~~ due on the sales and use
 10 tax. The amount of ~~such penalty, penalties and interest, and attorney fees,~~
 11 limited as provided by law, including relevant jurisprudence, until ~~such~~ the statute
 12 or jurisprudence is changed.

13 (b) The filing and remittance shall be done at no charge to the taxpayer by
 14 the state, the collector, or any taxing authority levying a tax.

15 (2) A web page through which a secured electronic local sales and use tax
 16 return may be filed, ~~which return shall be established by the Department of Revenue.~~
 17 The board shall maintain the secured electronic local sales and use tax return as well
 18 as the web page in which the return shall be accessed by taxpayers and collectors.

19 (3) A system to allow for the remittance of any tax, penalty, interest, or other
 20 amounts due.

21 (4) A system for the transmission and retrieval of ~~the appropriate a~~
 22 collector's data and funds ~~to him~~.

23 D.(1) Each collector shall provide to the ~~secretary~~ board and the advisory
 24 committee within ninety days of its written request, or ~~such~~ other time as may be
 25 allowed by the advisory committee, the information necessary to design and
 26 ~~implement~~ maintain the system provided for in this Section. Each collector shall
 27 follow the data validation procedures ~~established~~ recommended by the advisory
 28 committee and adopted by the board. If the collector fails or refuses to timely
 29 provide ~~such~~ the required information, the ~~secretary~~ board and the advisory
 30 committee shall design and implement the system from the best information

1 available to them. A collector's failure or refusal to provide the requested
 2 information as required in this Paragraph shall be an absolute defense against any
 3 claim by a taxing authority or collector against the board or advisory committee
 4 relating to the data utilized in the system provided for in this Section.

5 (2) Each collector shall provide written notification to the ~~secretary~~ board
 6 and the advisory committee by certified mail, return receipt requested, of any change
 7 in the information provided to it pursuant to Subparagraph (C)(1)(a) thirty days prior
 8 to ~~such~~ changes becoming effective, or ~~such~~ other shorter time as may be allowed
 9 by the advisory committee. Each collector shall follow the data validation
 10 procedures ~~established~~ recommended by the advisory committee and adopted by the
 11 board.

12 E. A taxpayer may rely on the information on the uniform electronic local
 13 return and remittance system and ~~such~~ the reliance shall be an absolute defense
 14 against any claim for a taxing authority's sales and use tax.

15 F.(1) It shall be the duty of the ~~state through the Department of Revenue~~
 16 board, with the advice of the advisory committee, to design, implement, maintain and
 17 operate the system required by this Section and to provide the staff and equipment
 18 necessary to receive and transmit to the collectors the electronic returns and funds.

19 (2)(a) It shall be the duty of the collector of each parish to provide and make
 20 available the appropriate staff, equipment, and information necessary for the receipt
 21 and transmission of electronic returns and funds. The ~~Department of Revenue~~ board
 22 shall not be responsible for any loss of revenue attributable to the failure of a
 23 collector to comply with the provisions of this Paragraph.

24 (b) The advisory committee may determine alternate distribution methods
 25 and the appropriate fees to be charged for ~~such~~ these methods when a collector fails
 26 to comply with the provisions of this Paragraph. The amount of the fee shall not
 27 exceed the cost of the alternate distribution method.

28 G.(1) It is the intention of this Section only to provide to taxpayers a simple,
 29 efficient, and cost-effective means of transmitting accurate tax returns and taxes to
 30 taxing authorities of the state from a central site in the quickest manner possible.

1 This Section shall not be construed to grant to the advisory committee or the
 2 ~~Department of Revenue~~ board any authority to collect or administer ~~such~~ taxes. In
 3 addition, any funds transmitted through the system as provided for in this Section
 4 shall be considered the funds of the taxing authorities to be distributed by the
 5 collector in the manner provided by local ordinances and shall not in any way be
 6 considered state funds or funds of the board.

7 (2) The advisory committee shall provide a method for all questions related
 8 to the application and interpretation of the sales and use tax law of a particular taxing
 9 authority received by the committee, the board, or the Department of Revenue to be
 10 forwarded to the appropriate collector for response.

11 ~~H.(1) The uniform electronic local return and remittance system provided in~~
 12 ~~this Section shall become operative on a date that the advisory committee determines~~
 13 ~~such system is ready, but no later than January 1, 2005.~~

14 ~~(2) However, the system shall not become operative until all of the following~~
 15 ~~occurs:~~

16 ~~(a) Notice is provided to each collector of the date upon which the system~~
 17 ~~is to be operative and the date of the public meeting provided for in Subparagraph~~
 18 ~~(2)(b).~~

19 ~~(b) After the notice is provided as required by Subparagraph (2)(a), but in~~
 20 ~~no case less than thirty days before the date the system becomes operative, the~~
 21 ~~advisory committee shall hold a public hearing to receive comments on the system.~~

22 F (1)(a) In addition to the uniform electronic local return and remittance
 23 system provided for in this Section, a link shall be created on the ~~Department of~~
 24 ~~Revenue's~~ board's web site to a web page where the following information provided
 25 by the collectors shall be posted:

26 (i) ~~A list of~~ Applicable tax rates.

27 (ii) ~~A list of the~~ Applicable optional exemptions enacted by a tax authority
 28 as provided for in R.S. 47:337.10.

29 (b) The ~~secretary~~ board and the advisory committee shall be notified of any
 30 changes in ~~such~~ the information as provided for in Subsection D of this Section: and

1 R.S. 47:337.5. Each collector shall follow the data validation procedures established
 2 by the advisory committee and adopted by the board. A collector's failure or refusal
 3 to provide the information as required in this Paragraph shall be an absolute defense
 4 against any claim by a taxing authority or collector against the board or advisory
 5 committee relating to the data utilized in the system provided for in this Section.

6 (2) The tax rates and optional exemptions posted on the web page as
 7 ~~provided for in this Section~~ shall be considered an official record of ~~such~~ the tax
 8 rates and optional exemptions and any court, whether requested to do so or not, shall
 9 take judicial notice thereof. A taxpayer may rely on the optional exemptions and tax
 10 rates posted on the web page and ~~such~~ this reliance shall be an absolute defense
 11 against any claim for a taxing authority's sales and use tax.

12 ~~J. If the secretary of the Department of Revenue and the commissioner of~~
 13 ~~administration certify to the advisory committee that there was not a separate line~~
 14 ~~item in the general appropriations bill appropriating funds to the Department of~~
 15 ~~Revenue for the design, implementation, and operation of the system provided for~~
 16 ~~in this Section for the fiscal year, or that insufficient funds were appropriated in such~~
 17 ~~line item, then such electronic filing and remittance shall not be available to~~
 18 ~~taxpayers from the first of the month following such certification and the secretary~~
 19 ~~may take such steps as he deems necessary to prevent access to the system until the~~
 20 ~~secretary and the commissioner certify that such funds have been appropriated in a~~
 21 ~~separate line item.~~

22 ~~K. I.(1) Beginning January 1, 2015, the~~ The collector for each taxing
 23 authority may require the electronic filing and remittance of local sales and use tax
 24 by any taxpayer required to electronically file or electronically remit state sales and
 25 use tax by the Department of Revenue. If the local collector for a taxing authority
 26 chooses the option of requiring the electronic filing and remittance of local sales and
 27 use tax returns in accordance with the provisions of this Subsection, then all
 28 taxpayers required to collect and remit sales or use tax on taxable events occurring
 29 within the jurisdiction of the taxing authority who are required by the Department
 30 of Revenue to electronically file and remit ~~such~~ taxes shall file all applicable sales

1 and use tax returns and remittances through the electronic filing options available for
 2 ~~such~~ those purposes; however, in cases where the taxpayer can show cause that the
 3 electronic filing of a return and remittance would create an undue hardship on the
 4 taxpayer, the collector for the taxing authority may exempt the taxpayer from the
 5 requirements of this Subsection.

6 (2) Failure of a taxpayer to comply with the electronic filing requirements
 7 set forth in this Subsection shall result in the collector for the taxing authority
 8 assessing a penalty of one hundred dollars or five percent of the tax owed on the
 9 return, whichever is greater; however, the total penalty per return shall not exceed
 10 five thousand dollars. The local collector for the taxing authority may waive
 11 remittance and payment of the penalty in whole or in part if the local collector
 12 determines that the failure to comply by the taxpayer was reasonable and was
 13 attributable, not to any negligence on the part of the taxpayer, but for a cause which
 14 is submitted to the local collector in writing.

15 * * *

16 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership;
 17 powers and duties

18 * * *

19 C. Powers and duties of the board. (1) The board may:
 20 ~~(1)~~ (a) Support and advise local sales and use tax collectors concerning the
 21 imposition, collection, and administration of local sales and use taxes authorized
 22 under the constitution and laws of this state.
 23 ~~(2)~~ (b) Promulgate rules and regulations in accordance with Part H of
 24 Chapter 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.
 25 ~~(3)~~ (c) Enter into agreements with local tax collectors.
 26 ~~(4)~~ (d) Enter into contracts for the services of legal counsel, analysts,
 27 auditors, appraisers, and witnesses, as well as any agency or department of the state
 28 or any state or local political subdivision.
 29 ~~(5)~~ (e) Issue policy advice on matters concerning the imposition, collection,
 30 and administration of local sales and use tax.

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

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

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

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

9 ~~(10)~~ (j) Hold an executive session pursuant to R.S. 42:16 for any of the
10 reasons contained in R.S. 42:17 and for the discussion of matters involving
11 confidential taxpayer information including policy advice, private letter rulings,
12 multi-parish audits, or other matters. The records and files of the board held for the
13 purpose of enforcement of the tax laws of this state and its political subdivisions
14 shall be considered to be the files and records of a political subdivision of the state
15 subject to the provisions of R.S. 47:1508 in the same manner as any other political
16 subdivision enforcing tax laws related to sales and use taxes.

17 (k) Impose a fee on any local collector that does not have an executed
18 agreement as provided for in Subparagraph (c) of this Paragraph in an amount equal
19 to the pro-rata share of the total actual costs incurred by the board for the creation,
20 implementation, and on-going maintenance and operation of the uniform local return
21 and remittance system. The pro-rata fee owed by each local collector shall be based
22 on the parish's share of the state's total population according to the most recent
23 federal decennial census. The fee authorized in this Subparagraph shall be billed by
24 the board to each collector not having an agreement as provided for in Subparagraph
25 (c) of this Paragraph. If a collector does not pay the fee authorized pursuant to the
26 provisions of this Subparagraph within thirty calendar days after imposition of the
27 fee by the board, the board shall notify the Louisiana Sales and Use Tax Commission
28 for Remote Sellers of the delinquency, and the Louisiana Sales and Use Tax
29 Commission for Remote Sellers shall deduct the amount of the unpaid fee from the
30 collector's next monthly distribution and remit the funds directly to the board.

1 (2) The board shall do all of the following:

2 (a) Manage, maintain, and supervise a uniform electronic local return and
 3 remittance system pursuant to the provisions of R.S. 47:337.23 by which taxpayers
 4 can electronically file and remit state and local sales and use taxes.

5 (b) Design, implement, manage, maintain, and supervise a single remittance
 6 system whereby each taxpayer can remit state and local sales and use taxes through
 7 a single transaction. Any contract for the selection of a vendor or service provider
 8 to design the single remittance system, including the procurement of software,
 9 hardware, or any other technology or electronic platform, or service shall be
 10 procured through the office of technology services and shall be in compliance with
 11 the provisions of R.S. 39:196 et seq.

12 (c) Design, manage, and maintain a link on the board's web page for the
 13 posting of information required to be posted pursuant to the provisions of R.S.
 14 47:337.23(H).

15 * * *

16 I. Funding. (1) Except as provided for in Paragraph (4) of this Subsection,
 17 the ~~The~~ board shall be funded through a dedication of a percentage of the total
 18 statewide collections of local sales and use tax on motor vehicles, as provided for in
 19 an agreement with local collectors and in accordance with the limitations provided
 20 in this Paragraph and the budgetary policy as provided in Paragraph (2) of this
 21 Subsection. Monies shall be payable monthly from the current collections of the tax.
 22 The dedication shall be considered a cost of collection and shall be deducted by the
 23 ~~state~~ office of motor vehicles and disbursed to the board prior to distribution of tax
 24 collections to local taxing authorities. The dedication shall be in addition to any fee
 25 imposed by the office of motor vehicles for the collection of the local sales and use
 26 tax on motor vehicles. The amount to be disbursed to the board in any fiscal year
 27 ~~after Fiscal Year 2018-2019 shall not, under any circumstances and notwithstanding~~
 28 ~~any budget adopted by the board,~~ exceed three-tenths of one percent of the
 29 collections.

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

10 * * *

11 (4)(a) The board shall fund the initial costs incurred for designing and
 12 implementing a single remittance system from the percentage of funding it currently
 13 receives pursuant to the provisions of Paragraph (1) of this Subsection. Thereafter,
 14 the board shall fund the costs associated with the management, maintenance, and
 15 supervision of the single remittance system from the funding it currently receives
 16 pursuant to the provisions of Paragraph (1) of this Subsection, subject to the state
 17 providing funding for any maintenance or modifications to the single remittance
 18 system requested by the state.

19 (b) The Department of Revenue shall continue to operate the electronic local
 20 return and remittance system used and administered by the department as of January
 21 1, 2024, until the board certifies to the Department of Revenue that the uniform
 22 electronic local return and remittance system required in this Section is fully
 23 designed, implemented, and available for use by taxpayers. The uniform electronic
 24 local return and remittance system required in this Section shall be fully designed,
 25 implemented, and available for use by taxpayers no later than January 1, 2026.
 26 However, from January 1, 2024, through December 31, 2025, the Department of
 27 Revenue's annual cost to continue to operate the electronic local return and
 28 remittance system shall not exceed five hundred four thousand dollars. Any
 29 enhancement to the electronic local return and remittance system requested between

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1 January 1, 2024, and December 31, 2025, shall be paid for on a pro rata basis by the
2 collector or collectors requesting the enhancement.

3 * * *

4 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
5 powers

6 * * *

7 E.

8 * * *

9 (2) The commission shall monthly remit monies, less any refunds, fees owed
10 to the board pursuant to the provisions of R.S. 47:337.102(C)(1)(k), and amounts
11 retained for expenses as defined in Paragraph (3) of this Subsection, to the
12 appropriate state or local collector by electronic funds to the designated bank account
13 of that state or local collector on or before the tenth business day of the month
14 following the month of collection. Records of gross collections, refunds, and
15 amounts retained for expenses shall be made accessible to the respective state or
16 local collector on a monthly basis.

17 * * *

18 Section 2. This Act shall become effective on January 1, 2024.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____