
DIGEST

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HB 825 Original

2016 Regular Session

Connick

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

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

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

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

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

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

Proposed law provides that the distribution of the non-state tax proceeds shall be conducted without the need for an appropriation. The secretary is required to deduct an amount not greater than one-half of one percent of the taxes collected as compensation for the collection service and to provide for continued support of the staff assigned to this function. The fee to be charged for collection on behalf of each taxing authority shall be determined by agreement of the secretary and the respective

taxing authority.

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

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

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

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

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

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

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

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

Proposed law retains present law.

Proposed law redefines the designation of "collector", defines "local collector" and "department",

and clarifies provisions specific to local collectors in various places in the Uniform Local Sales Tax Code to conform to collection of taxes by the secretary rather than the various single collectors for each parish.

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

Proposed law repeals present law.

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

Proposed law repeals present law.

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

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