

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 to a concursus proceeding for determination of the proper

8 local taxing jurisdiction; to establish the Louisiana Uniform Local Sales Tax Board

9 as a political subdivision of the state for purposes of uniformity and efficiency of

10 imposition, collection, and administration of local sales and use taxes; to provide for

11 membership of the board; to provide for powers and duties of the board; to establish

12 the Louisiana Sales and Use Tax Commission for Remote Sellers for purposes of

13 uniformity and efficiency of collection and administration of state and local sales and

14 use taxes relative to remote sellers; to provide for membership of the commission;

15 to provide for powers and duties of the commission; and to provide for related

16 matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 36:459(A) is hereby enacted to read as follows:

1 §459. Transfer of agencies or their powers to Department of Revenue

2 A. The Louisiana Sales and Use Tax Commission for Remote Sellers is
3 placed within the Department of Revenue and shall exercise and perform its powers,
4 duties, functions, and responsibilities as provided for agencies transferred in
5 accordance with the provisions of R.S. 36:801.1. The secretary and the Department
6 of Revenue shall in no way interfere with, review, or change the decisions or
7 operations of the agency so placed.

8 * * *

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

14 §302. Imposition of tax

15 * * *

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

17 * * *

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

1 ~~commission board~~ shall receive a copy of the executive budget submission of the
2 Local Tax Division of the Board of Tax Appeals.

3 * * *

4 §337.2. Intent; application and interpretation of Chapter

5 * * *

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

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

11 (a) "Board" means the ~~board of directors of the Louisiana Association of Tax~~
12 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board created by R.S.
13 47:337.102.

14 * * *

15 §337.19. Withholding of state funds; assessment and collection standards

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

25 * * *

26 §337.23. Uniform electronic local return and remittance system; official record of
27 tax rates, and exemptions; filing and remittance of local sales and use taxes;
28 penalties for violations

29 * * *

1 §337.49. Protest to collector's determination of tax due

2 A.(1) The taxpayer, within fifteen calendar days from the date of the notice
3 provided in R.S. 47:337.48(A) or within thirty calendar days from the date of the
4 notice provided in R.S. 47:337.48(B), may protest thereto. This protest must be in
5 writing and should fully disclose the reasons, together with facts and figures in
6 substantiation thereof, for objecting to the collector's determination. The collector
7 shall consider the protest, and shall grant a hearing thereon, before making a final
8 determination of tax, penalty, and interest due.

9 (2) The taxpayer or the local collector may request a member of the
10 Louisiana Uniform Local Sales Tax Board attend a hearing granted in accordance
11 with this Section. This request must be in writing and received by the board at least
12 five business days prior to the date of the hearing.

13 * * *

14 §337.81. Appeals from the collector's disallowance of refund claim

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

21 * * *

22 §337.86. Credit for taxes paid

23 * * *

24 E.

25 * * *

26 (3) Optional concursus proceeding.

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

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

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

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

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

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

1 §337.87. Post-session update procedure

2 * * *

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

6 * * *

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

8 * * *

9 §337.92. Definitions

10 As used in this Part:

11 (1) "Board" means the ~~board of directors of the Louisiana Association of Tax~~
12 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board as defined in R.S.
13 47:337.2 ~~which~~ that is required to develop rules and regulations pursuant to Chapter
14 2-D of the Uniform Local Sales Tax Code.

15 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (4) The board shall hold its first meeting no later than October 15, 2017, at
23 which time it shall elect a chair, vice-chair, and such other officers as determined
24 necessary at the first meeting.

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

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

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

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

23 F. Voluntary disclosure program. The board shall promulgate rules pursuant
24 to the Administrative Procedure Act to establish a uniform voluntary disclosure
25 program for taxpayers seeking relief from penalties in cases where a liability to more
26 than one local sales and use tax collector is owed. The board shall accept
27 applications from taxpayers seeking to participate in the program and may issue a
28 recommendation for the waiver of penalties for taxpayers who have complied with
29 program requirements, including full payment of taxes and interest. This

1 recommendation shall be binding on local tax collectors absent fraud, material
2 misrepresentation, or any such misrepresentation of the facts by the taxpayer.

3 G. Refunds. The board shall establish uniform standards and forms for the
4 purposes of refund requests for all local sales and use taxes. The refund denial form
5 shall include notice to taxpayers that a refund request denial is appealed to the Board
6 of Tax Appeals, and shall provide specific information as to deadlines and other
7 requirements as provided by law. The board shall serve as the central filing agency
8 for all refund claims involving two or more Louisiana parishes having transactions
9 similar in fact. The filing of a refund claim with the board shall suspend the running
10 of prescription. The board shall notify the respective tax collector within fifteen
11 days of receipt of a refund request.

12 H. Multi-parish audits. The board may develop a coordinated multi-parish
13 audit process which may be requested by a taxpayer having a location in the state
14 and registered to file and remit local sales and use taxes pursuant to a local ordinance
15 in at least three parishes. Any coordinated multi-parish audit program developed
16 shall be implemented through a pilot program prior to statewide availability.

17 I. Funding. (1) The board shall be funded through a dedication of a
18 percentage of the collections of local sales and use taxes on motor vehicles to be
19 payable monthly from the current collections of the tax beginning November 1,
20 2017. The dedication shall be considered a cost of collection and shall be deducted
21 by the state and transmitted to the board prior to distribution of tax collections to
22 local taxing authorities. The dedication shall be in addition to any fee imposed by
23 the office of motor vehicles for the collection of the local sales and use tax on motor
24 vehicles, and shall not exceed:

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

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

27 (c) In Fiscal Year 2019-2020 and each fiscal year thereafter, one-half of one
28 percent of the collections.

1 political subdivisions their authority to impose and collect sales and use taxes as
2 provided in Article VI, Section 29 of the Constitution of Louisiana and other laws.

3 (2) With respect to Senate Bill 698 of the 114th United States Congress, the
4 "Marketplace Fairness Act of 2015" or such similar federal law as may be enacted
5 by the United States Congress authorizing states to require remote sellers, except
6 those remote sellers who qualify for the small seller exceptions as provided by
7 federal law, to serve as the single entity in Louisiana to require remote sellers and
8 their designated agents to collect from customers and remit to the commission sales
9 and use taxes on remote sales sourced to Louisiana on the uniform Louisiana state
10 and local sales and use tax base established by Louisiana law.

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

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

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

23 (d) Provide for, in accordance with federal law, remote sellers software that
24 calculates the sales and use tax due on each transaction at the time the transaction is
25 completed, that files sales and use tax returns, and that is updated to reflect changes
26 in rates or bases.

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

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

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

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

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

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

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

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

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

25 (4) "Federal law" shall mean Senate Bill 698 of the 114th Congress, the
26 "Marketplace Fairness Act of 2015" or such other similar federal law as may be
27 enacted by the United States Congress authorizing states to require remote sellers,
28 except those remote sellers who meet the small seller exceptions of federal law, to
29 collect and remit sales and use taxes on remote sales sourced to Louisiana.

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

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

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

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

11 (9) "Sales and use taxes" and "taxes" shall mean the sales and use taxes
12 levied by the state of Louisiana under the provisions of Title 47 of the Louisiana
13 Revised Statutes of 1950 and the sales and use taxes levied by local taxing
14 authorities in Louisiana under the provisions of the Constitution of Louisiana,
15 statutory laws authorizing the imposition of such taxes, and local sales and use tax
16 ordinances.

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

18 Powers

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

23 B. The commission shall be comprised of eight voting commissioners as
24 follows:

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

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

28 (3) The four appointed non-permanent members of the Louisiana Uniform
29 Local Sales Tax Board as provided in R.S. 47:337.102(B).

1 C. The commission shall elect its own chair, vice-chair, and such other
2 officers as its rules may direct.

3 D.(1) The commission shall meet as often and at such locations as directed
4 by the chair who shall provide timely notice of the time and location of each meeting
5 to the public. A majority of the commission membership shall constitute a quorum
6 for the transaction of business and no action shall be taken by the commission unless
7 approved by a majority vote of the members present.

8 (2) The domicile of the commission shall be East Baton Rouge Parish. The
9 commission may meet and conduct commission business at other locations within
10 the state of Louisiana as it may from time to time determine, after timely notice to
11 those persons who may be affected thereby.

12 E.(1) The commission shall select and employ an executive director who
13 shall serve at the pleasure of the commission. The executive director, under and
14 subject to the direct supervision and control of the commission, shall direct the
15 day-to-day administration and enforcement of all laws, rules, policies, and
16 regulations which it is the duty of the commission to administer and enforce. The
17 executive director shall receive compensation and benefits as may be determined and
18 fixed by the commission. The executive director may employ professional and
19 administrative staff and set their rate of compensation and benefits, plus necessary
20 expenses incurred in performing their duties, as may be approved by the commission.
21 The commission may enter into a joint services agreement with any other agency,
22 board, or political subdivision concerning the performance of its functions.

23 (2) The commission shall remit monies, less any refunds and amounts
24 retained for expenses, as defined in Paragraph (E)(3) of this Section, to the
25 appropriate jurisdiction monthly by electronic funds to the designated bank account
26 of the appropriate jurisdiction on or before the tenth business day of the month
27 following the month of collection. Records of gross collections, refunds, and
28 amounts retained for expenses shall be made accessible to the respective jurisdiction
29 on a monthly basis.

1 (3) The commission and its operations shall be funded by an amount equal
2 to actual expenses incurred not to exceed one-percent of the amount collected
3 pursuant to the state and local sales tax on remote sales as collected by the
4 commission. This amount shall be retained by the commission on a monthly basis
5 from current collections of state and local sales tax on remote sales as collected by
6 the commission prior to monthly distribution to the state and local collectors.

7 F. The commission shall develop rules and procedures in accordance with
8 the Administrative Procedure Act governing its internal operations and governing
9 dealer and taxpayer dealings with the commission.

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

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

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

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

20 (4) To serve as the single state of Louisiana agency to represent both state
21 and local taxing authorities in taking appropriate action to enable Louisiana to
22 participate in programs designed to allow Louisiana to receive additional state and
23 local sales and use taxes on sales made by remote sellers.

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

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

1 (7) To provide, on or before June first of each year for the preceding
2 calendar year, to the single tax collector for each parish an annual report of revenues
3 collected and distributed.

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

6 (9) With the consent of the affected local taxing authority, to issue notices
7 of intent to assess, notices of assessments, enforce collection of local taxes by
8 distrain and sale, institution of summary proceedings or ordinary proceedings for
9 collection of local taxes.

10 (10) To sue and be sued.

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

12 (1) Limit the right of local taxing authorities to levy and collect sales and use
13 taxes as provided in the Constitution of Louisiana, statutory law and jurisprudence.

14 (2) Authorize the commission to exercise any right or perform any function
15 presently exercised by local sales and use tax authorities under present law.

16 (3) Create, repeal, or amend any local tax exclusions or exemptions.

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

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

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

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

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

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

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

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 601 Original

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.

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 were 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.

Present constitution [Const. Art. VI, Sec. 29(A)] authorizes the governing authority of any parish, municipality, or school board to levy and collect a sales and use tax.

Present constitution [Const. Art. VII, Sec. 3(B)] requires sales and use taxes levied by political subdivisions to be collected by a single collector for each parish and authorizes the legislature, to establish a method of providing for such a single collector or a central collection commission in each parish.

Proposed law creates the Louisiana Uniform Local Sales Tax Board and authorizes it to do the following:

- (1) Support and advise local tax collectors concerning collection and administration of local taxes.
- (2) Promulgate regulations pursuant to the APA relating to local sales and use tax.
- (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.
- (9) Develop a coordinated multi-parish audit process.

The board is required to provide for a voluntary disclosure program by rule and to create a uniform refund request and approval process.

Proposed law provides that the Louisiana Uniform Local Sales Tax Board is to be composed of eight members:

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

The first four members shall be permanent board members and the last four members shall be appointed for five year terms except for the initial appointment which may be for any term between two and five years as determined by the permanent members of the board. The appointing associations shall coordinate to insure that all regions of the state are represented on the board.

The board is domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

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

- (a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.
- (b) In Fiscal Year 2018-2019, one-third of one percent of the collections.
- (c) In Fiscal Year 2019-2020 and each fiscal year thereafter, one-half of one percent of the collections.

The percentage rate 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.

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 the 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).

Proposed law creates the Louisiana Sales and Use Tax Commission for Remote Sellers within the Dept. of Revenue for the administration and collection of state and local sales and use taxes related to remote sales and to promote uniformity and simplicity in sales and use tax compliance in Louisiana for remote sellers while still reserving to local political subdivisions the right to levy and collect local sales and use taxes.

Proposed law provides that Dept. of Revenue shall in no way interfere with or change the decisions or operations of the commission.

Proposed law provides that the commission will serve as the single entity in Louisiana required under federal proposals such as the Marketplace Fairness Act of 2015 to require remote sellers to collect and remit sales and use tax on Louisiana sales. The commission will also:

- (1) Provide 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) Provide at no expense to remote sellers software programs to facilitate the filing, reporting, payment, and remittance of state and local sales and use taxes to the appropriate local Louisiana jurisdictions to which remote sales are sourced.
- (3) Maintain a free Internet database that provides information to remote sellers regarding the taxability of products and services, exclusions, exemptions, rates, and territorial boundaries.
- (4) Provide remote sellers software that calculates the sales and use tax due on each transaction at the time the transaction is completed, that files sales and use tax returns, and that is updated to reflect changes in rates or bases.
- (5) If necessary, establish a fiscal agent solely for the purpose of remote seller remittances.
- (6) Provide remote sellers and certified software providers within thirty days, or as required by federal law, notice of a rate change by the state or any local taxing jurisdiction in the state.
- (7) Provide a procedure for persons to be approved as certified software providers.
- (8) Provide to remote sellers, and at no cost to them, an electronic sales and use tax remote sales tax return format for use in reporting and remitting state and local sales taxes.
- (9) Provide an electronic means for remote sellers to determine the appropriate local taxing authority to receive the tax on remote sales.

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

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

The commission is domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

Proposed law provides that the commission shall employ an executive director to direct the day to day operations of the commission and shall develop procedures to govern its day to day operations in accordance with the APA.

Proposed law provides for funding the commission through a dedication of a percentage of the collections of local sales and use taxes collected by the commission not to exceed one percent.

Proposed law provides that the commission will have the power and duty to:

- (1) To serve as the single entity within the state of Louisiana responsible for all state and local sales and use tax administration for remote sales sourced to Louisiana.
- (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 serve as the single state agency to represent both state and local taxing authorities in taking appropriate action to enable Louisiana to participate in programs designed to allow Louisiana to receive additional state and local sales and use taxes on sales made by remote sellers.
- (5) To conduct administrative hearings as requested by aggrieved remote sellers and render decisions following such hearings.
- (6) To require remote sellers to register with the commission.
- (7) To provide to the single tax collector for each parish an annual report of revenues collected and distributed.
- (8) To enter into agreements to waive or suspend prescription as to state and local taxes.
- (9) 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, institution of summary proceedings or ordinary proceedings for collection of local taxes.
- (10) To sue and be sued.

Proposed law provides that the commission's authority is limited to transactions involving remote sellers and that the commission is not authorized to serve as the single collector of state and local use tax and that the commission shall not usurp the authority granted to local taxing authorities to levy, collect and administer their own taxes.

Effective upon signature of the 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)