

CONFERENCE COMMITTEE REPORT

SB 164

2020 Regular Session

Allain

May 29, 2020

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 164 by Senator Allain, recommend the following concerning the Reengrossed bill:

1. That Legislative Bureau Amendment Nos. 1 and 2, proposed by the Legislative Bureau and adopted by the House of Representatives on May 21, 2020, be rejected.
2. That Legislative Bureau Amendment Nos. 3, 4, and 5, proposed by the Legislative Bureau and adopted by the House of Representatives on May 21, 2020, be adopted.
3. That House Floor Amendment Nos. 1, 2, and 3 proposed by Representative Bishop and adopted by the House of Representatives on May 27, 2020 by adopted.

Respectfully submitted,

Senators:

Representatives:

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Senator R. L. Bret Allain, II

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Representative Stuart J. Bishop

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Senator W. Jay Luneau

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Representative Tanner Magee

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Senator Patrick McMath

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Representative Gerald "Beau" Beaulieu, IV

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The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore F. Heavey.

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## CONFERENCE COMMITTEE REPORT DIGEST

SB 164

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### Keyword and summary of the bill as proposed by the Conference Committee

TAX/LOCAL. Provides relative to local sales and use tax adjudication. (7/1/20)

#### Report adopts House amendments to:

1. Increase from 30 to 60 calendar days the time a taxpayer has to respond to a notice of an estimated assessment when the required report was not filed by the taxpayer.
2. Update notice language sent to taxpayers to inform them of their rights after receiving notice of an estimated assessment.

#### Report rejects House amendments which would have:

Changed a statutory reference and provided unclear notice to taxpayers.

### Digest of the bill as proposed by the Conference Committee

Present law requires local sales and use tax collectors to determine the tax, penalty, and interest due when a taxpayer fails to file a sales and use tax return and prohibits the taxpayer from appealing this estimated assessment to the Board of Tax Appeals.

Proposed law provides that when an estimated tax amount exceeds \$100,000, a taxpayer who has never filed a return or has never been the subject of any collection action by that local collector, and has no physical presence in the state may take any action authorized by proposed law within the applicable deadline for action including appealing to the Board of Tax Appeals without submitting a payment under protest.

Present law requires that if no report has been timely filed, then the notice is to be sent by certified mail to the taxpayer. Requires that this notice shall inform the taxpayer of the assessment and that he has 30 calendar days from the date of the notice to do either of the following:

- (a) Pay the amount of the assessment.
- (b) Pay under protest in accordance with R.S. 47:337.63 and then either file suit or file a petition with the Board of Tax Appeals, all as provided for in that Section.

Proposed law retains these provisions but increases from 30 to 60 calendar days the time that the taxpayer has to do any of the items listed and adds provisions to the notice informing that taxpayer that they should consider any other right pursuant to proposed law or other applicable law including the right of a prepayment appeal to the Board of Tax Appeals pursuant to proposed law.

Present law authorizes local tax collectors to collect local sales and use tax by summary court proceeding.

Proposed law retains the ability of local collectors to use summary proceedings to collect local sales and use taxes, but limits the use of summary proceedings to the following circumstances:

- (1) The collection of a tax assessment that has become final, a bankruptcy receiver has been appointed for the taxpayer, or the taxpayer self-assessed the amount shown due on the return.
- (2) A jeopardy assessment has been or could be issued against the taxpayer.
- (3) A rule to cease business has been or is concurrently brought against the taxpayer.

- (4) The matter involves the collector's authority to enforce collection of taxes collected from others.
- (5) A taxpayer or dealer has failed to make and file any required return or report where the collector estimates the tax due to be less than \$100,000.

Proposed law provides specific instructions on how collectors shall compute all refunds or credits and allow interest as part of the refund or credit.

Effective July 1, 2020.

(Amends R.S. 47:337.51(A)(2); adds R.S. 47:337.51(A)(4), 337.61(5) and 337.80(A)(4) and (D))