2020 Regular Session

HOUSE BILL NO. 561

BY REPRESENTATIVE DWIGHT

1	AN ACT
2	To amend and reenact R.S. 47:302(K)(7)(b), 337.33(A)(1) and (5), 337.71, 551(B), 1401,
3	1402(C), (D)(1), (E)(1), and (F), 1403(A)(3), 1407(1), (3), and (7), 1408(D)(1), and
4	1434(A) and to enact R.S. 47:301(4)(n), 303(I), 337.22(E), 337.33(E), 340(E)(6),
5	1403(A)(5), and 1431(E), relative to the administration, enforcement, and
6	adjudication of state and local taxes; to provide for certain collection procedures; to
7	provide for the jurisdiction of the Board of Tax Appeals; to provide relative to the
8	timeline for appointments, selection of officers, filling of vacancies, and review of
9	compensation for the Board of Tax Appeals; to provide relative to interagency
10	transfers to the Board of Tax Appeals; to provide relative to the definition of a
11	dealer; to provide relative to definitions and administration of tax related to peer to
12	peer vehicle sharing; to provide for the filing of certain petitions with the Board of
13	Tax Appeals; to provide for the judicial review of decisions of the Board of Tax
14	Appeals; to authorize a local collector to extend a filing or payment deadline under
15	certain circumstances; to require the publication of certain extensions; to require the
16	waiver of penalties under certain circumstances; to provide for certain requirements
17	and limitations; to authorize the filing of certain actions; and to provide for related
18	matters.
19	Be it enacted by the Legislature of Louisiana:
20	Section 1. R.S. 47:337.33(A)(1) and (5), 337.71, 1401, 1402(C), (D)(1), (E)(1), and
21	(F), 1403(A)(3), 1407(1), (3), and (7), 1408(D)(1), and 1434(A) are hereby amended and

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1	reenacted and R.S. 47:337.22(E), 337.33(E), 340(E)(6), 1403(A)(5), and 1431(E) are hereby
2	enacted to read as follows:
3	§337.22. Sales and use tax returns
4	* * *
5	E.(1) In the event of a presidential or gubernatorial declared disaster or
6	emergency covering a local collector's jurisdiction, a local collector may elect to
7	extend filing or payment deadlines related to the taxes collected pursuant to the
8	provisions of this Chapter until the extended date for the same period specified for
9	state sales and use taxes for the same period. Whenever an extension is granted by
10	the local collector pursuant to this Subsection, interest and penalties shall not accrue
11	on the tax during the period of the extension provided that the return and payment
12	are received by the extended due date. Any decision to adopt an extension pursuant
13	to this Subsection shall be provided to the Louisiana Uniform Local Sales Tax Board
14	for publication on its website.
15	(2) The authority granted in this Subsection shall be in addition to any other
16	authority provided by this Chapter.
17	* * *
18	§337.33. Failure to pay tax; rule to cease business
19	A.(1) On motion in a court of competent jurisdiction, the collector may take
20	a rule on a taxpayer, to show cause in not less than two or more than ten days,
21	exclusive of holidays, why the taxpayer should not be ordered to cease from further
22	pursuit of his business for failure to pay to the taxing authority amounts collected
23	from others by his business as sales and use tax, along with any interest, penalty, and
24	costs related to such tax. Such rule may be taken only for amounts due as a result
25	of assessments or judgments which have become final and nonappealable or for
26	amounts shown to have been actually collected from others and not remitted to the
27	<u>collector</u> .
28	* * *
29	(5) The collection procedure provided for in this Subsection shall be in
30	addition to any other collection procedure provided by law. When issuing an order

1	pursuant to this Subsection, the Board of Tax Appeals or any court of competent
2	jurisdiction, upon proper showing, may also render a money judgment against the
3	taxpayer and in favor of the collector in the amount of any final and non-appealable
4	nonappealable assessment or other amount shown to have been actually collected
5	from others and not remitted to the collector, together with all penalties, interest,
6	attorney fees and costs due.
7	* * *
8	E. Neither the collector's consent to a continuance request nor the collector's
9	failure to object to the date that any court or the Board of Tax Appeals sets for the
10	hearing date of a rule brought pursuant to the provisions of this Section shall be
11	considered a waiver of the collector's right to proceed pursuant to the provisions of
12	this Section nor be deemed to convert a summary proceeding into an ordinary
13	proceeding.
14	* * *
15	§337.71. Waiver of penalty for delinquent filing or delinquent payment
16	<u>A.</u> If the failure to make any return at the time such return becomes due or
17	the filing of a return without remittance of the full amount due is attributable not to
18	the negligence of the taxpayer, but to other cause set forth in written form and
19	considered reasonable by the collector, the collector may remit or waive payment of
20	the whole or any part of the specific penalty provided for such failure.
21	B. Notwithstanding the provisions of Subsection A of this Section, a
22	taxpayer is eligible for a penalty waiver if the taxpayer establishes to the local
23	collector that his failure to file during the period of a presidential or gubernatorial
24	declared disaster or emergency was due to the inaccessibility of funds to pay the tax,
25	the unavailability of records or personnel necessary to prepare and file the return, or
26	other related good cause stemming from the extension of related state sales and use
27	tax filing deadlines.
28	* * *

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1 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members; 2 powers 3 4 E. * 5 6 (6)(a) The commission is authorized to enter into a cooperative endeavor 7 agreement for the purposes specified in R.S. 47:1439(F)(3), and any payments due 8 pursuant thereto shall be added to any amounts due pursuant to Paragraph (5) of this 9 Subsection. 10 (b) Any amount due pursuant to this Paragraph or Paragraph (5) of this 11 Subsection shall be in addition to any amounts otherwise retained pursuant to 12 Paragraph (3) of this Subsection. 13 14 §1401. Creation of Board of Tax Appeals 15 In order to provide effect to the provisions of Article V, Section 35 and 16 Article VII, Section 3(A) of the Constitution of Louisiana, a board that will act as an 17 appeal board to hear and decide, at a minimum of expense to the taxpayer, questions 18 of law and fact arising from disputes or controversies between a taxpayer and any 19 collector of the State state of Louisiana or its political subdivisions in the 20 enforcement of any tax, excise, license, permit or any other tax, fee, penalty, receipt 21 or other law administered by a collector, and to exercise other jurisdiction as 22 provided by law, including jurisdiction as provided for in the Uniform Local Sales 23 Tax Code, the Board of Tax Appeals, hereinafter referred to as the "board", is created 24 as an independent agency in the Department of State Civil Service, and for the 25 purposes of this Chapter. The Local Tax Division is created as an independent 26 agency and authority within the board for the purposes of exercising jurisdiction over

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disputes involving local collectors.

1	§1402. Membership of board; qualifications; appointment; term; vacancy; salary
2	* * *
3	C. The governor shall make the following appointments on or before
4	September 1, 2014: one member with a term expiring February 1, 2016, and one
5	member with a term expiring February 1, 2018. The successor to the member whose
6	term expires pursuant to this Section on February 1, 2020 shall be appointed to a
7	term expiring January 1, 2024, and the successor to the member whose term expires
8	February 1, 2022 shall be appointed to a term expiring January 1, 2026. Any
9	subsequent appointments pursuant to this Subsection shall be for either a fixed term
10	of four years from the date of the expiration of the expired term or for the remainder
11	of an unexpired term.
12	D.(1) On or before August 1, 2014, the governor shall appoint one member
13	to a term expiring February 1, 2020, from a list of qualified nominees provided by
14	the nominating committee established pursuant to this Subsection. The successor to
15	that member shall be appointed to a term expiring January 1, 2026. Any subsequent
16	appointments pursuant to this Subsection shall be for either a fixed term of six years
17	from the date for expiration of the expired term or for the remainder of an unexpired
18	term. An appointment pursuant to the provisions of this Subsection shall be made
19	within ninety days of written notice of the nomination.
20	* * *
21	E.(1) A Notwithstanding any provision of law to the contrary, a board
22	member shall continue to serve until a successor has been appointed. No member
23	may be removed during an unexpired except by induction into office of a successor,
24	duly appointed and qualified pursuant to this Section, upon expiration of a term of
25	office except or for good cause shown, which shall be subject to judicial review.
26	* * *
27	F. The governor shall establish the compensation to be paid to members of
28	the board, including any additional compensation for its officers, shall be continued.
29	Beginning January 1, 2024, the board's regular salary shall be subject to review and
30	recommendation by the Judicial Compensation Commission. Any recommendation

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1	issued shall become effective only upon approval by the legislature. Annual
2	adjustments related to reimbursement of expenses or per diem may be approved by
3	the supreme court. A member's compensation shall not be reduced during his
4	unexpired term of office.
5	§1403. Designation of officers; domicile; quorum; seal
6	Α.
7	* * *
8	(3) The member appointed pursuant to R.S. 47:1402(D) shall be the hearing
9	judge of the Local Tax Division of the board. For the purposes of the Local Tax
10	Division, the judge shall exercise all jurisdiction, authority, and powers of the board
11	and its chairman, including the hearing of cases to be adjudicated in the division and
12	the rendering of orders and judgments in such cases. The remainder of the board may
13	temporarily exercise these functions during any vacancy in this appointment, but
14	may not hear and render judgment in a case in the division only if this appointment
15	remains vacant for more than ninety days.
16	* * *
17	(5) In the event of a vacancy lasting more than ninety days, the supreme court
18	is authorized to make assignments or appointments in the same manner as authorized
19	pursuant to Article V, Section 5(A) of the Constitution of Louisiana, and any ad hoc
20	judge so assigned shall receive the compensation specified in this chapter for ad hoc
21	appointment due to recusal.
22	* * *
23	§1407. Jurisdiction of the board
24	The jurisdiction of the board shall extend to the following:
25	(1) All matters relating to appeals for the redetermination of assessments, or
26	for the determination of overpayments, or payment under protest petitions, or other
27	matters within its jurisdiction, as provided in R.S. 47:1431 through 1438 or other
28	applicable law.
29	* * *

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1	(3) All matters related to state or local taxes or fees, or other jurisdiction
2	otherwise provided by law, including rules to cease business, ordinary collection
3	suits, summary tax proceedings, rules to seek uniformity of interpretation of common
4	sales and use tax law or local sales and use tax law, as provided in R.S.
5	47:337.101(A)(2), and petitions concerning the validity of a collector's rules,
6	regulations, or private letter rulings, as provided in R.S. 47:337.102.
7	* * *
8	(7) A petition for declaratory judgment or other action related to the
9	constitutionality of a law or ordinance or validity of a regulation concerning any
10	matter relating to any state or local tax or fee excluding those tax matters within the
11	jurisdiction of the Louisiana Tax Commission pursuant to the provisions of Article
12	VII, Section 18(E) of the Constitution of Louisiana.
13	* * *
14	§1408. Power to administer oaths and issue rules, orders, or subpoenas
15	* * *
16	D.(1) An action may be brought in the Board of Tax Appeals pursuant to the
17	provisions of R.S. 47:314, 337.33(A) <u>337.33</u> , 337.43, 1547, 1574.1, or 1582, and the
18	provisions of those Sections shall apply to the Board of Tax Appeals and its Local
19	Tax Division in the same manner as for a district court. In addition to the remedies
20	otherwise provided for in this Section, any interested party may file a motion or rule
21	in any court of competent jurisdiction alleging a violation of any order issued by the
22	board or its local tax judge pursuant to applicable law, and the district court shall
23	consider any violation shown to be a contempt of the court and shall immediately
24	punish the violator in accordance with R.S. 13:4611(1) and all other applicable laws
25	for contempt of court.
26	* * *
27	§1431. Taxpayer's petition Filing of petition
28	* * *
29	E. Any collector, taxpayer, or other aggrieved party may file a petition or
30	pleading with the board concerning any matter provided for pursuant to R.S.

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1	47:1407(3) or other applicable law. The Louisiana Uniform Local Sales Tax Board
2	may file an action for uniformity pursuant to R.S. 47:337.101 in the same manner as
3	<u>a local collector.</u>
4	* * *
5	§1434. Judicial review of decision of the board
6	A. Within thirty days of <u>mailing the notice of</u> the signing of a decision or
7	judgment of the board, any party may file a motion with the board for review of the
8	decision or judgment by the appropriate appellate court. The date of actual receipt
9	of a hand-delivered notice shall be deemed the date of mailing in the event the notice
10	of judgment is hand delivered in lieu of mailing.
11	* * *
12	Section 2. R.S. 47:302(K)(7)(b) and 551(B) are hereby amended and reenacted and
13	R.S. 47:301(4)(n) and 303(I) are hereby enacted to read as follows:
14	§301. Definitions
15	As used in this Chapter the following words, terms, and phrases have the
16	meanings ascribed to them in this Section, unless the context clearly indicates a
17	different meaning:
18	* * *
19	(4) "Dealer" includes every person who manufactures or produces tangible
20	personal property for sale at retail, for use, or consumption, or distribution, or for
21	storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined
22	to mean:
23	* * *
24	(n)(i) Any person who operates, maintains, or facilitates a peer-to-peer
25	vehicle sharing program and collects any amount required to be paid as part of a
26	vehicle sharing program agreement whereby a shared vehicle owner leases or rents
27	a shared vehicle to a shared vehicle driver in this state.
28	(ii) For the purposes of this Subparagraph, the following definitions shall
29	apply:

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	(aa) "Vehicle sharing program agreement" means the terms and conditions
2	applicable to a shared vehicle owner and a shared vehicle driver that govern the use
3	of a shared vehicle through a peer-to-peer vehicle sharing program.
4	(bb) "Peer-to-peer vehicle sharing" means the authorized use of a vehicle by
5	a person other than the vehicle's owner through a peer-to-peer car sharing program.
6	(cc) "Peer-to-peer vehicle sharing program" means a business platform that
7	connects a shared vehicle owner with a shared vehicle driver to enable the sharing
8	of vehicles for financial consideration.
9	(dd) "Shared vehicle" means a vehicle that is available for sharing through
10	a peer-to-peer vehicle sharing program.
11	(ee) "Shared vehicle driver" means a person who has been authorized to drive
12	the shared vehicle by the shared vehicle owner under a vehicle sharing program
13	agreement.
14	(ff) "Shared vehicle owner" means the registered owner, or a person or entity
15	designated by the registered owner, of a shared vehicle made available for sharing
16	to shared vehicle drivers through a peer-to-peer vehicle sharing program.
17	* * *
18	§302. Imposition of tax
19	* * *
20	K. An additional tax shall be levied as follows:
20	K. An additional tax shall be levied as follows:
20 21	K. An additional tax shall be levied as follows:
20 21 22	K. An additional tax shall be levied as follows: * * * (7)
20 21 22 23	K. An additional tax shall be levied as follows: * * * (7) * * *
20 21 22 23 24	 K. An additional tax shall be levied as follows: * * * (7) * * * (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the
20 21 22 23 24 25	K. An additional tax shall be levied as follows: * * * (7) * * * (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the Department of State Civil Service, Board of Tax Appeals, shall be increased by fifty-
 20 21 22 23 24 25 26 	K. An additional tax shall be levied as follows: * * * (7) * * * (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the Department of State Civil Service, Board of Tax Appeals, shall be increased by fifty- five thousand dollars on July 1, 2015, by thirty-two thousand dollars on July 1, 2016,
20 21 22 23 24 25 26 27	K. An additional tax shall be levied as follows: * * * * (7) * * * (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the Department of State Civil Service, Board of Tax Appeals, shall be increased by fifty- five thousand dollars on July 1, 2015, by thirty-two thousand dollars on July 1, 2016, and by five thousand dollars on the first day of each of the six subsequent fiscal

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1	retain all funds which that are transferred as directed in this Subparagraph and
2	Subparagraph (b) of this Paragraph.
3	* * *
4	§303. Collection
5	* * *
6	I. The state sales tax collected by dealers as defined in R.S. 47:301(4)(n)
7	shall be filed and paid electronically to the secretary.
8	* * *
9	§551. Imposition of tax
10	* * *
11	B. (1) The tax shall be payable to the secretary of the Department of
12	Revenue. The tax shall be collected and payment enforced pursuant to the provisions
13	of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950
14	insofar as such provisions are not in conflict with this Section. The secretary is
15	authorized to promulgate rules and regulations necessary for the proper
16	administration and enforcement of this Chapter.
17	(2) The state and local taxes levied pursuant to Subsection (A) of this Section
18	shall be filed and paid electronically to the secretary by dealers as defined in R.S.
19	<u>47:301(4)(n).</u>
20	* * *
21	Section 3. The provisions of this Section and Section 1 of this Act shall be effective
22	July 1, 2020. The provisions of Section 2 of this Act shall be effective on January 1, 2021.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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