

ACT No. 278

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

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 collector.

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 §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
27 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

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 A.

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 * * *

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 a local collector.

4 * * *

5 §1434. Judicial review of decision of the board

6 A. Within thirty days of mailing the notice of 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:

1 (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:

21 * * *

22 (7)

23 * * *

24 (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the
25 Department of State Civil Service, Board of Tax Appeals, shall be increased by fifty-
26 five thousand dollars on July 1, 2015, by thirty-two thousand dollars on July 1, 2016,
27 and by five thousand dollars on the first day of each of the ~~six~~ subsequent fiscal
28 years. The amounts specified in this Subparagraph and Subparagraph (a) of this
29 Paragraph shall be transferred by the secretary within the first thirty days of each
30 fiscal year and the Department of State Civil Service, Board of Tax Appeals, may

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 47:301(4)(n).

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: _____