

2021 Regular Session

HOUSE BILL NO. 199

BY REPRESENTATIVE SCHEXNAYDER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES & USE: (Constitutional Amendment) Provides for the State and Local Streamlined Sales and Use Tax Commission

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A JOINT RESOLUTION

Proposing to add Article VII, Section 3.1 of the Constitution of Louisiana, relative to sales and use tax collection; to create the State and Local Streamlined Sales and Use Tax Commission; to authorize the legislature to provide by law for the streamlined electronic collection of sales and use taxes; to provide for commission membership; to provide for commission duties and responsibilities; to provide for commission officers; to provide for the administration of sales and use taxes; to provide for funding; to provide for submission of the proposed amendment to the electors; to provide for effectiveness; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to add Article VII, Section 3.1 of the Constitution of Louisiana, to read as follows:

§3.1. State and Local Streamlined Sales and Use Tax Commission

Section 3.1.(A) The State and Local Streamlined Sales and Use Tax Commission, hereinafter referred to in this Section as the "commission", is hereby created as a statewide political subdivision. The commission's membership, duties, and obligations shall be determined by law in accordance with the provisions of this Section.

1 (B)(1) The membership of the commission shall be comprised of eight
2 members as follows:

3 (a) One member appointed by the Louisiana School Boards Association or
4 its successor.

5 (b) One member appointed by the Louisiana Municipal Association or its
6 successor.

7 (c) One member appointed by the Police Jury Association of Louisiana or
8 its successor.

9 (d) One member appointed by the Louisiana Sheriffs' Association or its
10 successor.

11 (e) The secretary of the Department of Revenue, or a designee of the
12 secretary.

13 (f) One member appointed by the governor.

14 (g) One member appointed by the speaker of the House of Representatives.

15 (h) One member appointed by the president of the Senate.

16 (2) A member of the commission may appoint a designee to attend
17 commission meetings and vote by proxy on his behalf. The procedure for appointing
18 a proxy shall be determined by commission rules.

19 (3) The commission shall have a chairman and vice chairman and such other
20 officers as the commission deems necessary. The initial chairman of the commission
21 shall be elected by commission members at the first meeting and shall be a member
22 representing local political subdivisions. The initial vice-chairman shall be elected
23 by commission members at the first meeting and shall be a member representing the
24 state. Thereafter, on the anniversary of the initial election of the chairman and vice-
25 chairman, the commission shall elect as chairman a member representing the state,
26 and shall elect as vice-chairman a member representing local political subdivisions.
27 The election of chairman and vice-chairman positions shall continue to rotate
28 between representation of local political subdivisions and the state in this manner
29 each year.

1 (4) The adoption or amendment of administrative and operational rules of
2 the commission shall require a two-thirds vote of the members of the commission.

3 (C) The commission shall:

4 (1) Provide for the streamlined electronic filing and remittance of sales and
5 use taxes levied by all taxing authorities within the state ensuring prompt remittance
6 of the respective tax returns and monies received electronically by the commission
7 to the single collector for each taxing authority and to the Department of Revenue
8 for distribution. The tax monies received shall, at all times, be and remain the
9 property of the respective taxing authorities or the state.

10 (2) Serve as the administrative entity with respect to the issuance of policy
11 advice and promulgation of rules relative to sales and use taxes levied by all taxing
12 authorities within the state.

13 (3) Serve as the central audit entity for all taxpayers not having a physical
14 presence in Louisiana.

15 (4) Develop rules to streamline the audit process for taxpayers with a
16 physical presence in Louisiana.

17 (D) The commission shall be funded with state and local sales and use tax
18 revenues collected and deemed to be reasonable and necessary costs of the
19 administration and collection of sales and use taxes levied by all taxing authorities
20 within the state.

21 (E) Upon the first meeting of the commission, the Louisiana Sales and Use
22 Tax Commission for Remote Sellers and the Louisiana Uniform Local Sales Tax
23 Board shall be abolished and the powers, duties, and authority of these entities shall
24 be transferred to the commission. The respective governing boards of both entities
25 provided for in this Paragraph shall cease to exist upon the first meeting of the
26 commission.

27 (F) All statutory provisions enacted relative to the membership, duties, or
28 obligations of the commission shall require the enactment of law by a two-thirds vote
29 of the elected members of each house of the legislature.

1 (G) Absent the enactment of statutory provisions providing for streamlined
2 electronic filing and remittance as provided in Subparagraph (C)(1) of this Section,
3 such collection shall be as provided in Article VII, Section 3(B) of this Constitution.

4 Section 2. Be it further resolved that this proposed amendment shall be submitted
5 to the electors of the state of Louisiana at the statewide election to be held on November 8,
6 2022.

7 Section 3. Be it further resolved that on the official ballot to be used at the election,
8 there shall be printed a proposition, upon which the electors of the state shall be permitted
9 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
10 follows:

11 Do you support an amendment to authorize the legislature to provide for the
12 streamlined collection of sales and use taxes levied within the state by the
13 State and Local Streamlined Sales and Use Tax Commission and to provide
14 for the membership, duties, and responsibilities of the commission? (Adds
15 Article VII, Section 3.1)

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 199 Original

2021 Regular Session

Schexnayder

Abstract: Establishes the State and Local Streamlined Sales and Use Tax Commission.

Present constitution authorizes the governing authority of any local governmental subdivision or school board to levy and collect taxes on the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption of tangible personal property and on sales of services as defined by law, if approved by a majority of the electors voting thereon in an election held for that purpose.

Present constitution authorizes a political subdivision to exercise the power of taxation under authority granted by the legislature.

Present constitution requires all political subdivisions which levy sales and use taxes within a parish to agree among themselves to provide for the collection of their taxes by a single collector or a central collection commission.

Proposed constitutional amendment changes present constitution by creating the State and Local Streamlined Sales and Use Tax Commission (commission) as a statewide political subdivision.

Proposed constitutional amendment further provides the commission shall be comprised of eight members as follows:

1. One member appointed by the La. School Boards Association.
2. One member appointed by the La. Municipal Association.
3. One member appointed by the Police Jury Association of La.
4. One member appointed by the La. Sheriffs' Association.
5. The secretary of the Dept. of Revenue, or the designee of the secretary.
6. One member appointed by the governor.
7. One member appointed by the speaker of the House of Representatives.
8. One member appointed by the president of the Senate.

Proposed constitutional amendment authorizes commission members to appoint a designee to attend meetings on behalf of the member and to vote by proxy on behalf of the member.

Proposed constitutional amendment requires the chairman and vice-chairman be elected annually. Requires the first chairman of the commission to be a member representing local political subdivisions and the first vice-chairman to be a member representing the state. Further requires the following chairman to be a member representing the state and the vice-chairman to be a member representing local political subdivisions. Requires the chairman and vice-chairman positions to be elected each year in this manner.

Proposed constitutional amendment provides that the adoption or amendment of administrative and operational rules of the commission shall require a vote of two-thirds of the members.

Proposed constitutional amendment provides that the commission shall provide for streamlined electronic filing and remittance of all sales and use taxes levied in the state. Further provides for prompt remittance of all monies collected and specifies that monies collected shall be the property of the respective taxing authority.

Proposed constitutional amendment requires the commission to serve as the streamlined administrative entity to provide policy advice and to promulgate rules relative to sales and use taxes levied by all taxing authorities within the state. Further provides the commission shall serve as the central audit entity for all taxpayers without a physical presence in La.

Proposed constitutional amendment shall be funded by both state and local sales and use tax revenues considered reasonable and necessary costs of administration and collection of sales and use taxes.

Proposed constitutional amendment abolishes the La. Sales and Use Tax Commission for Remote Sellers and the La. Uniform Local Sales Tax Board shall be abolished and provides that the powers, duties, and authority of these entities shall be transferred to the commission.

Proposed constitutional amendment requires a two-thirds vote of the legislature to enact all statutory provisions relative to membership, duties, or obligations of the commission.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 8, 2022.

(Adds Const. Art. VII, §3.1)