

CONFERENCE COMMITTEE REPORT

HB 199

2021 Regular Session

Schexnayder

June 3, 2021

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

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 199 by Representative Schexnayder, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Senate Committee on Revenue and Fiscal Affairs (#1461) be rejected.
2. That the set of amendments by the Legislative Bureau (#1577) be adopted.
3. That Senate Floor Amendment No. 1 and Nos. 3 through 7 by Senator Milligan (#2005) be rejected.
4. That Senate Floor Amendment No. 2 by Senator Milligan (#2005) be adopted.
5. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 2, line 5, after "law" delete the remainder of the line in its entirety and delete line 6 in its entirety and insert a period " ."

AMENDMENT NO. 2

On page 2, line 22, after "(2)" insert the following:

"The initial members of the commission shall be appointed at the first meeting.

(3)"

AMENDMENT NO. 3

On page 3, delete lines 5 through 9 in their entirety and insert the following:

"(C) The first meeting of the commission shall be called by the speaker of the House of Representatives no later than one year following the enactment of the statutory provisions as provided for in Paragraph (I) of this Section.

(D) The commission shall:

(1) Provide for the streamlined electronic filing, electronic remittance, and the collection of sales and use taxes levied within the state ensuring prompt remittance"

AMENDMENT NO. 4

On page 3, delete lines 14 through 20 in their entirety, and at the beginning of line 21 delete "(D)" and insert the following:

"(2) Issue policy advice relative to sales and use taxes levied by all taxing authorities within the state.

(3) Develop rules, regulations, and guidance to simplify and streamline the audit process for sales and use taxpayers.

(E)"

AMENDMENT NO. 5

On page 3, delete lines 25 through 27 in their entirety and insert the following:

"(F) One year following the first meeting of the commission, the Louisiana Sales and Use Tax Commission for Remote Sellers and the Louisiana Uniform Local Sales Tax Board shall be abolished."

AMENDMENT NO. 6

On page 4, at the end of line 2, insert the following:

"When the Louisiana Sales and Use Tax Commission for Remote Sellers and the Louisiana Uniform Local Sales Tax Board are abolished:"

AMENDMENT NO. 7

On page 4, at the beginning of line 3, delete "(2)" and insert "(1)"

AMENDMENT NO. 8

On page 4, at the beginning of line 6, delete "(3)(a)" and insert "(2)"

AMENDMENT NO. 9

On page 4, at the beginning of line 10, delete "(b)" and insert "(3)"

AMENDMENT NO. 10

On page 4, at the beginning of line 13 delete "(F)" and insert the following:

"(G) The adoption or amendment of any rule by the commission shall require a two-thirds vote of the members of the commission and shall be in accordance with the provisions of the Administrative Procedure Act.

(H)"

AMENDMENT NO. 11

On page 4, delete lines 16 through 18 in their entirety and insert the following:

"(I)(1) Absent the enactment of statutory provisions pursuant to Subparagraphs (D)(1) through (3) of this Section, local sales and use tax collection shall be as provided in Article VII, Section 3(B) of this Constitution and state sales and use tax collection and administration shall be by the Department of Revenue as provided by law.

(2) Any law enacting provisions pursuant to Subparagraphs (D)(1) through (3) of this Section shall require a two-thirds vote of the elected members of each house of the legislature. Beginning on the effective date of such law, the provisions of Article VII, Section 3(B) of this Constitution shall cease to be effective and shall be inapplicable, inoperable, and of no effect for the limited purposes of the commission's duties as set forth in Subparagraphs (D)(1) through (3) of this Section."

AMENDMENT NO. 12

On page 4, at the end of line 20, delete "November 8," and at the beginning of line 21, delete "2022." and insert "October 9, 2021. If the Act which originated as Senate Bill No. 149 of this 2021 Regular Session of the Legislature does not become effective and no statewide election is held on October 9, 2021, this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 8, 2022."

AMENDMENT NO. 13

On page 4, delete line 27 in its entirety and insert the following:

"streamlined electronic filing, electronic remittance, and the collection of sales and use taxes levied within the state by the"

AMENDMENT NO. 14

On page 5, line 1, after "for the" and before "duties," delete "membership," and insert "funding,"

Respectfully submitted,

Representative Clay Schexnayder

Senator Patrick Page Cortez

Representative Stuart J. Bishop

Senator R. L. Bret Allain II

Representative Gerald "Beau"
Alphonse Beaulieu, IV

Senator Barry Milligan

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 199

2021 Regular Session

Schexnayder

Keyword and oneliner of the instrument as it left the House

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

Report adopts Senate amendments to:

1. Require members of the commission to be confirmed by the Senate.
2. Make technical amendments.

Report rejects Senate amendments which would have:

1. Added language providing that absent the enactment of statutory provisions providing for the streamlined electronic filing and remittance, the commission shall not be created and such collection and administration shall be as provided in present constitution.
2. Added language that required all administrative and operational rules of the commission to be adopted or amended in accordance with the provisions of the Administrative Procedure Act.
3. Added language that provided statutory provisions enacted pursuant to proposed constitutional amendment that provided for streamlined electronic filing and remittance of sales and use taxes levied by local taxing authorities shall supercede the provisions of present constitution for the limited purposes of filing returns and remittance of taxes to the commission by electronic methods.
4. Added language that stated absent the enactment of statutory provisions providing for the streamlined electronic filing and remittance the commission shall not be created and state collection and administration shall be by the Department of Revenue as provided by law.

Report amends the bill to:

1. Require the initial members of the commission to be appointed at the first meeting.
2. Require the first meeting of the commission to be called by the speaker of the House of Representatives no later than one year following the enactment of certain statutory provisions.
3. Require the commission to:
 - (a) Provide for the streamlined electronic filing, electronic remittance, and the collection of sales and use taxes levied within the state.
 - (b) Issue policy advice relative to sales and use taxes levied within the state.

- (c) Develop rules, regulations, and guidance to simplify and streamline the audit process for sales and use taxpayers.
- 4. Provide that one year following the first commission meeting, the Louisiana Sales and Use Tax Commission for Remote Sellers and the Louisiana Uniform Local Sales Tax Board shall be abolished.
- 5. Add language that provides that the adoption or amendment of any rule by the commission shall require a two-thirds vote of the commission and shall be in accordance with the provisions of the Administrative Procedure Act.
- 6. Add language that provides absent the enactment of statutory provisions pursuant to proposed constitutional amendment, local sales and use tax collection shall be as provided in present constitution and state sales and use tax shall be as provided in present law.
- 7. Add language that requires any law enacting provisions pursuant to proposed constitutional amendment shall require a two-thirds vote of the legislature and beginning on the effective date of such law the provisions of the present constitution shall cease to be effective and shall be inapplicable, inoperable, and of no effect for the limited purposes of the proposed constitutional amendment.
- 8. Add language which provides that if Senate Bill No. 149 of this 2021 Regular Session does not become effective and no statewide election is held on October 9, 2021, the proposed constitutional amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 8, 2022.
- 9. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Present law authorizes the state 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.

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 creates 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 who shall be subject to Senate confirmation, as follows:

- (1) One member appointed by the La. School Boards Association, or its successor.
- (2) One member appointed by the La. Municipal Association, or its successor.
- (3) One member appointed by the Police Jury Association of La, or its successor.
- (4) One member appointed by the La. Sheriffs' Association, or its successor.

- (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 provides that the initial members of the commission shall be appointed at the first meeting.

Proposed constitutional amendment requires the chairman and vice-chairman to be elected annually. Requires the first chairman of the commission to be a member referenced above in Paragraphs (1) through (4) and the first vice-chairman to be a member referenced above in Paragraphs (5) through (8). Further requires the following chairman to be a member referenced above in Paragraphs (5) through (8) and the vice-chairman to a member referenced above in Paragraphs (1) through (4). Requires the chairman and vice-chairman positions to rotate each year in this manner.

Proposed constitutional amendment provides that the first meeting of the commission shall be called by the speaker of the House of Representatives no later than one year following the enactment of certain provisions by the legislature.

Proposed constitutional amendment provides that the commission shall provide for streamlined electronic filing, electronic remittance, and the collection of all sales and use taxes levied within 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 issue policy advice and to develop rules, regulations, and guidance to centralize and streamline the audit process for sales and use taxpayers.

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

Proposed constitutional amendment provides that one year following the first meeting of the commission, the La. Sales and Use Tax Commission for Remote Sellers and the La. Uniform Local Sales Tax Board shall be abolished.

Proposed constitutional amendment provides the powers, duties, functions, and responsibilities of these entities shall be transferred to the commission. Provides that any reference in law to the La. Sales and Use Tax Commission for Remote Sellers and the La. Uniform Local Sales Tax Board shall be deemed to apply to the commission. Further provides that all books, papers, records, actions, property, and employees of La. Sales and Use Tax Commission for Remote Sellers and the La. Uniform Local Sales Tax Board shall be transferred to the commission.

Proposed constitutional amendment provides that the adoption or amendment of any rule of the commission shall require a vote of two-thirds of the members and shall be in accordance with the provisions of the Administrative Procedure Act.

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

Proposed constitutional amendment provides that absent the enactment of any statutory provisions pursuant to proposed constitutional amendment, local sales and use tax collection shall be as provided for in the present constitution and state sales and use tax collection shall be as provided by law.

Proposed constitutional amendment provides any law enacting provisions pursuant to the proposed constitutional amendment shall require a two-thirds vote of the legislature. Further provides beginning on the effective date of such law, the provisions of the present constitution shall cease to be effective and shall be inapplicable, inoperable, and of no effect for the limited purposes of the proposed constitutional amendment.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Oct. 9, 2021. Further provides that if Senate Bill No. 149 of this 2021 Regular Session does not become effective and no statewide election is held on October 9, 2021, the proposed constitutional amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 8, 2022.

(Adds Const. Art. VII, §3.1)