

2021 Regular Session

HOUSE BILL NO. 562

BY REPRESENTATIVE BOURRIAQUE

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(7)(b), 337.102(B)(3) and (5), (I)(1) and (3), and (K),  
3 and 340(A) and (E)(5), 1402(E)(1) and (2), 1404, 1406, 1418(7)(d), and 1483(C), to  
4 enact R.S. 47:337.102(C)(10), 338.223, 1408(D)(3), and 1483(A)(2) and (3), and to  
5 repeal R.S. 47:340(I), relative to the administration and adjudication of state and  
6 local sales and use taxes; to provide relative to tax administration; to provide for the  
7 dedication of local funds to the Board of Tax Appeals; to provide for protective  
8 orders and confidentiality of taxpayer information; to provide relative to the  
9 membership of the Louisiana Uniform Local Sales Tax Board; to provide for the  
10 selection of officers of the Louisiana Uniform Local Sales Tax Board; to provide for  
11 the funding of the Louisiana Uniform Local Sales Tax Board; to provide for a  
12 strategic plan for the Louisiana Uniform Local Sales Tax Board; to provide for  
13 dedications related to the Louisiana Sales and Use Tax Commission for Remote  
14 Sellers; to provide for agreements relative to funding for the Louisiana Sales and Use  
15 Tax Commission for Remote Sellers; to provide for membership and qualifications  
16 of the Board of Tax Appeals; to provide for employees of the Board of Tax Appeals;  
17 to provide for certain Board of Tax Appeals employee salaries; to provide for  
18 expenditures for the Board of Tax Appeals; to provide for definitions; to provide for  
19 the collection of occupancy taxes; to provide for the payment of Board of Tax  
20 Appeals judgments; to provide for certain requirements and limitations; and to  
21 provide for related matters.

22 Be it enacted by the Legislature of Louisiana:

23 Section 1. R.S. 47:302(K)(7)(b), 337.102(B)(3) and (5), (I)(1) and (3), and (K),  
24 340(A) and (E)(5), 1402(E)(1) and (2), 1404, 1406, 1418(7)(d), and 1483(C) are hereby

1 amended and reenacted and R.S. 47:337.102(C)(10), 338.223, 1408(D)(3), and 1483(A)(2)  
2 and (3) are hereby enacted to read as follows:

3 §302. Imposition of tax

4 \* \* \*

5 K. An additional tax shall be levied as follows:

6 \* \* \*

7 (7)

8 \* \* \*

9 (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the  
10 Department of State Civil Service, Board of Tax Appeals, shall be increased by fifty-  
11 five thousand dollars on July 1, 2015, by thirty-two thousand dollars on July 1, 2016,  
12 and by ~~five~~ twelve thousand dollars on the first day of each of the subsequent fiscal  
13 years. The amounts specified in this Subparagraph and Subparagraph (a) of this  
14 Paragraph shall be transferred by the secretary within the first thirty days of each  
15 fiscal year and the Department of State Civil Service, Board of Tax Appeals, may  
16 retain all funds that are transferred as directed in this Subparagraph and  
17 Subparagraph (b) of this Paragraph.

18 \* \* \*

19 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership;  
20 powers and duties

21 \* \* \*

22 B. Board membership and organization.

23 \* \* \*

24 (3) ~~The board member appointments provided for in Subparagraphs (B)(1)(e)~~  
25 ~~through (h) of this Section shall be made no later than August 31, 2017.~~ Employees,  
26 legal counsel, and vendors of a single parish collector's office shall not be eligible  
27 for appointment to the board. Members appointed to the board pursuant to  
28 Subparagraphs (B)(1)(e) through (h) of this Section shall serve at the pleasure of the  
29 respective appointing authority. The appointing authorities shall coordinate their  
30 appointments to the board in order that the board's membership is representative of

1 the diverse regions of the state and to ensure that no two members represent a single  
2 parish.

3 \* \* \*

4 (5) The board ~~shall hold its organizational meeting no later than October 15,~~  
5 ~~2017, at which time it shall elect a chairman, vice chairman, and such other officers~~  
6 ~~as determined necessary at the first meeting by the board.~~

7 \* \* \*

8 C.

9 \* \* \*

10 (10) Hold an executive session pursuant to R.S. 47:16 for any of the reasons  
11 contained in R.S. 47:17 and for the discussion of policy advice, private letter rulings,  
12 or other matters potentially involving confidential taxpayer information. The records  
13 and files of the board held for the purpose of enforcement of the tax laws shall be  
14 deemed to be the files and records of a political subdivision of the state subject to the  
15 provisions of R.S. 47:1508 in the same manner as any other political subdivision  
16 enforcing tax laws related to sales and use taxes.

17 \* \* \*

18 I. Funding. (1) The board shall be funded through a dedication of a  
19 percentage of the total statewide collections of local sales and use tax on motor  
20 vehicles, as provided for in an agreement with local collectors and in accordance  
21 with the limitations provided in this Paragraph and the budgetary policy as provided  
22 in Paragraph (2) of this Subsection. Monies shall be payable monthly from the  
23 current collections of the tax. The dedication shall be considered a cost of collection  
24 and shall be deducted by the state and disbursed to the board prior to distribution of  
25 tax collections to local taxing authorities. The dedication shall be in addition to any  
26 fee imposed by the office of motor vehicles for the collection of the local sales and  
27 use tax on motor vehicles. The amount to be disbursed to the board in any fiscal year  
28 after Fiscal Year 2018-2019 shall not, under any circumstances and notwithstanding  
29 any budget adopted by the board, exceed ~~the following:~~

1 ~~(a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.~~

2 ~~(b) In Fiscal Year 2018-2019, one-quarter of one percent of the collections.~~

3 ~~(c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of~~  
4 ~~one percent of the collections.~~

5 \* \* \*

6 (3) If use tax collections pursuant to R.S. 47:302(K) ~~yields~~ yield insufficient  
7 revenue to fulfill the dedication made pursuant to R.S. 47:302(K)(7) for interagency  
8 transfers to the Department of State Civil Service, Board of Tax Appeals, and the  
9 Local Tax Division, and there is no means of financing available to satisfy the  
10 dedication pursuant to R.S. 47:340(E)(5), the board shall pay any remaining amount  
11 necessary to satisfy the dedication, which payment shall be made into the Local Tax  
12 Division Expense Fund within the first thirty days of the fiscal year. The board is  
13 also authorized to enter into an agreement with the Department of State Civil  
14 Service, Board of Tax Appeals, or the Local Tax Division to pay in a like manner an  
15 amount sufficient to compensate the Local Tax Division for workload increases.

16 \* \* \*

17 K. The board shall adopt a strategic plan for its operations, which shall  
18 include specific goals and objectives. ~~The plan shall be adopted by July 1, 2018. The~~  
19 strategic plan shall be updated not less than once every five fiscal years.

20 \* \* \*

21 §338.223. Collection and administration of occupancy taxes

22 A. All occupancy taxes administered or collected by the secretary of the  
23 Department of Revenue shall be subject to the provisions of Chapter 18 of this  
24 Subtitle.

25 B.(1) All other occupancy taxes including those levied pursuant to this Part  
26 may be collected as provided for in this Chapter and shall be subject to review  
27 pursuant to the provisions of this Chapter.

28 (2) Any request for a refund of tax that was paid but not actually due shall  
29 be made in accordance with the provisions of this Chapter.

30 \* \* \*

1           §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;  
2   powers

3                           A. The duties of the commission shall be exercised and discharged under the  
4                           supervision and direction of a commission with voting power and a non-voting  
5                           executive director, all of whom shall be appointed and shall serve as provided in this  
6                           Section:

7   \*       \*       \*

8                           E.

9   \*       \*       \*

10                           (5)(i) If use tax collections pursuant to R.S. 47:302(K) yield insufficient  
11                           revenue to fulfill the dedication for the adjudication of local sales and use tax matters  
12                           that is made pursuant to R.S. 47:302(K)(7) for interagency transfers to the  
13                           Department of State Civil Service, Board of Tax Appeals, Local Tax Division, ~~and~~  
14                           ~~there is no means of financing available to satisfy the dedication pursuant to R.S.~~  
15                           ~~47:337.102(I)(3)~~; the remaining amount necessary to satisfy the dedication shall be  
16                           considered an actual expense of this commission pursuant to Paragraph (3) of this  
17                           Subsection, and payment of the interagency transfer due shall be made from local  
18                           sales and use tax collections of the commission. The payments due pursuant to this  
19                           Item shall be made within the first thirty days of the fiscal year in accordance with  
20                           the provisions of R.S. 47:337.102(I)(3).

21                           (ii) A part of the interagency transfer due pursuant to Section 2 of Act No.  
22                           198 of the 2014 Regular Session of the Legislature may be designated as an actual  
23                           expense of the commission pursuant to Paragraph (3) of this Subsection, and  
24                           payment of that designated part ~~may~~ agreed to in writing between the board and the  
25                           secretary or her designee shall be made from state sales and use tax collections of the  
26                           commission. The payments due pursuant to this Item shall be made within the first  
27                           thirty days of the fiscal year.

28   \*       \*       \*

29                           §1402. Membership of board; qualifications; appointment; term; vacancy; salary

30   \*       \*       \*

1           E.(1) Notwithstanding any provision of law to the contrary, a board member  
 2 shall continue to serve until a successor has been appointed. No member may be  
 3 removed except by (a) induction into office of a successor, duly appointed and  
 4 qualified pursuant to this Section, upon expiration of a term of office or (b) for good  
 5 cause shown, which shall be subject to judicial review.

6           (2) A member who has served on the board for ~~more than two and one-half~~  
 7 ~~terms occurring within~~ three consecutive full terms shall be ineligible for  
 8 reappointment to the board until at least two years from the last day of his last  
 9 appointment. However, a member may be reappointed notwithstanding any other  
 10 provision of law to the contrary, if nominated pursuant to Subsection D of this  
 11 Section, and service pursuant to that Subsection is not counted for the purposes of  
 12 any term or service limitation.

13   \*       \*       \*

14       §1404. Employees of the board

15           A. The board shall appoint as its principal assistant a ~~secretary-clerk~~ clerk  
 16 who shall be custodian of its files and records, and one private secretary who may  
 17 also be the stenographer-reporter for the board. The board shall also appoint any  
 18 other employees necessary for the performance of the functions herein delegated.

19           B.(1) The board shall fix the salaries of the ~~secretary-clerk,~~ clerk and any  
 20 stenographer-reporter and.

21           (2) The board shall fix the salaries of other employees pursuant to  
 22 administrative rules. If a rule requires the equivalent of classified market rate  
 23 adjustments, they shall be included in any budget requests or recommendations in  
 24 the same manner as applicable for other state classified employees.

25   \*       \*       \*

26       §1406. Expenditures

27           A. The board is authorized to make ~~such~~ expenditures ~~(including~~  
 28 expenditures for personal services ~~and for,~~ law books, books of reference, and  
 29 periodicals), as may be necessary to efficiently execute the functions vested in the  
 30 board. ~~At~~ Subject to the provisions of this Subtitle related to the Local Tax

1            Division, the expenditures of the board shall be allowed and paid; out of any monies  
 2            appropriated for the purposes of the board. Any item funded pursuant to a written  
 3            agreement for a particular service shall be included in any budget request or  
 4            recommendation to the full extent of the funding provided for under the agreement.

5            B. The board's self-generated revenue from local cases filed with the board  
 6            pursuant to the provisions of the Uniform Local Sales Tax Code shall be expended  
 7            exclusively for the purposes of its Local Tax Division, and may be retained by the  
 8            board and carried forward for such purposes. No provision of law, including R.S.  
 9            47:1998(D), shall be construed to relieve a party of filing fees or case deposits for  
 10           causes of actions under this Chapter. Notwithstanding any provision of law to the  
 11           contrary, any surplus local revenue provided for under R.S. 47:302(K)(7), R.S.  
 12           47:340(E)(5)(i), or other applicable law may be retained as provided for in this  
 13           Subsection or held in the local tax division expense fund exclusively for the purposes  
 14           of the Local Tax Division.

15                                    \*            \*            \*

16            §1408. Power to administer oaths and issue rules, orders, or subpoenas

17                                    \*            \*            \*

18                                    D.

19                                    \*            \*            \*

20                                    (3) The authority pursuant to Article 1426 of the Louisiana Code of  
 21            Civil Procedure shall apply to the board and its Local Tax Division in the  
 22            same manner as for a district court, and the board may issue an order in  
 23            accordance with the provisions of that Article concerning any subpoena or  
 24            other discovery pursuant to this Title.

25                                    \*            \*            \*

26            §1418. Definitions

27                                    For purposes of this Chapter, except when the context requires otherwise, the  
 28            words and expressions defined in this Section shall have the following meanings:

29                                    \*            \*            \*

1 (7) "State collector" means any of the following:

2 \* \* \*

3 (d) Any other collector of state taxes or fees, or any other state agency where  
4 an agency action is appealable to the board or is related to state taxes or fees,  
5 including related contracts.

6 \* \* \*

7 §1483. Payment of approved claims

8 A.

9 \* \* \*

10 (2) If the board approves a claim for an amount less than the amount claimed  
11 by the claimant, the board shall submit the new amount to the claimant.

12 (a) If the claimant accepts the new amount, the claim shall be approved as  
13 a judgment pursuant to the provisions of Paragraph (1) of this Subsection.

14 (b) If the claimant does not accept the new amount, the claim shall be  
15 denied.

16 (c) Any denied claim shall be subject to the provisions provided for in R.S.  
17 47:1486. No other cause of action shall be maintained before the board or any court  
18 for a claim that has been approved and has been paid pursuant to the provisions of  
19 this Part.

20 (3)(a) Any amount agreed upon by both parties in a stipulated or consent  
21 judgment shall be submitted to the board pursuant to Paragraph (1) of this  
22 Subsection. The board may at its sole discretion issue an amended judgment  
23 pursuant to this Section when required to correct an error or upon joint application  
24 of both parties.

25 (b) Any stipulated or consent judgment submitted jointly by the claimant or  
26 counsel of the claimant and counsel appointed to represent the state of Louisiana not  
27 exceeding one hundred thousand dollars shall be paid in the same manner as  
28 provided for in Paragraph (B)(1) of this Section during the forty-five day period after  
29 the last day of the fiscal year, to the extent funds are available after payment of all



