SLS 22RS-294 REENGROSSED

2022 Regular Session

SENATE BILL NO. 95

BY SENATOR ALLAIN

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TAX/LOCAL. Creates the multi-parish audit program for local sales tax. (7/1/22)

1	AN ACT
2	To amend and reenact R.S. 47:337.36, 337.102(H) and (I)(1) and to enact R.S.
3	47:337.26(D)(1)(f) and 337.102(C)(10), relative to the Uniform Local Sales Tax
4	Board; to create a multi-parish audit program; to provide for confidentiality of
5	taxpayer information; to provide for the operations of the program; to provide
6	relative to the funding of the board; to provide for reporting on the program to
7	legislative committees; to provide for an effective date; and to provide for related
8	matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 47:337.36, 337.102(H) and (I)(1) are hereby amended and reenacted
11	and R.S. 47:337.26(D)(1)(f) and 337.102(C)(10) are hereby enacted to read as follows:
12	§337.26. Contracts for purposes relating to collection of sales and use taxes
13	* * *
14	D.(1) Prior to initiating an examination or audit of a taxpayer, the local
15	collector shall provide notice of the intent to audit which shall be sent by certified
16	mail to the taxpayer at the taxpayer's last known address. Such notice shall:

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1 (f) Beginning July 1, 2023, the notice shall advise the taxpayer that the 2 taxpayer may request a multi-parish audit pursuant to R.S. 47:337.102. 3 §337.36. Power to examine records and premises of taxpayer 4 5 For the purpose of administering the provisions of the local ordinance and this Chapter, the collector, whenever he deems considers it expedient, may make or 6 7 cause to be made by any of his authorized assistants, an examination or investigation 8 of the place of business, if any, the tangible personal property, and the books, 9 records, papers, vouchers, accounts, and documents of any taxpayer. The collector 10 shall notify the taxpayer of the availability of the multi-parish audit program 11 when the taxpayer is initially notified of the collector's intent to conduct an examination or investigation pursuant to this Section. Every taxpayer and every 12 13 director, officer, agent, or employee of every taxpayer, shall exhibit to the collector or to any of his authorized assistants, the place of business, the tangible personal 14 15 property and all of the books, records, papers, vouchers, accounts, and documents of the taxpayer and to facilitate any such examination or investigation so far as it 16 17 may be in his or their power so to do. 18 19 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership; powers 20 and duties 21 22 C. Powers and duties of the board. The board may: 23 24 (10) Hold an executive session pursuant to R.S. 42:16 for any of the reasons contained in R.S. 42:17 and for the discussion of matters involving 25 confidential taxpayer information including policy advice, private letter rulings, 26 27 multi-parish audits, or other matters. The records and files of the board held 28 for the purpose of enforcement of the tax laws of this state and its political

subdivisions shall be considered to be the files and records of a political

1	subdivision of the state subject to the provisions of R.S. 47:1508 in the same
2	manner as any other political subdivision enforcing tax laws related to sales and
3	use taxes.
4	* * *
5	H. Multi-parish audits.
6	(1) The Beginning July 1, 2022, the board may develop a coordinated shall
7	implement and coordinate the multi-parish audit process which program.
8	(2) Multi-parish audit program.
9	(a) A multi-parish audit may be requested by a taxpayer having a location
10	that:
11	(i) Has a location in the state and registered to file and remit local sales and
12	use taxes pursuant to a local ordinance in at least three parishes.
13	(ii) Is not a recipient of a jeopardy assessment issued by any collector.
14	(iii) Is not engaged in a current audit by a collector for which a notice of
15	intent to assess was issued prior to July 1, 2022.
16	(iv) Agrees to promptly sign all necessary agreements to suspend
17	prescription.
18	(v) Is not involved in any litigation with any collector. If a coordinated
19	multi-parish audit program is developed, the program shall be implemented through
20	a pilot program prior to statewide availability.
21	(b)(i)A taxpayer that qualifies may request a multi-parish audit from the
22	board within thirty days from the issuance of a notice of examination from all
23	of the parishes in which the taxpayer engaged in taxable transactions during the
24	audit period.
25	(ii) The board shall assist the taxpayer to identify all parishes in which
26	the taxpayer is registered to file and remit local sales and use taxes or obligated
27	to pay sales and use taxes and shall send a notice of the multi-parish audit to all
28	parishes identified. Parishes shall have thirty days from the date of the notice
29	to opt in or out of the multi-parish audit. If the parish collector does not

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2 considered to have opted out of the multi-parish audit. 3 (iii) Any parish identified by the taxpayer that opts out of a multi-parish audit shall be prohibited from auditing the requesting taxpayer until after the 4 completion of the multi-parish audit. This prohibition shall not apply to 5 6 parishes that the taxpayer failed to disclose to the board. 7 (c) The board shall select and compensate the auditors who will conduct 8 the multi-parish audit. Nothing in this Subsection shall prevent a local collector 9 from furnishing auditors at its own expense to assist the board's auditors in 10 conducting the multi-parish audit. All auditors participating in the multi-parish 11 audit shall be bound by R.S. 47:337.26 and any audit protocols required by the 12 board. 13 (d) The board shall facilitate consistent treatment of taxability of 14 transactions between parishes involved in a multi-parish audit. 15 (e)(i) Each parish shall review the completed audit and shall make an independent determination regarding the issuance of a notice of intent to assess 16 within forty-five days of receipt of the completed audit. 17 (ii) Notwithstanding any provision of law to the contrary, a notice of 18 19 intent to assess arising from a multi-parish audit shall interrupt prescription for 20 the parish issuing the notice of intent to assess. 21 (iii) The board shall notify any parish that opted out of the multi-parish 22 audit that the audit has been completed within thirty days of the completion of the audit. 23 24 (f) After the issuance of the notices of intent to assess, the taxpayer may request a joint administrative hearing in which all parishes that opted into the 25 multi-parish audit may participate. The board shall coordinate the hearing. 26 27 (g) The board shall develop audit procedures, hearing procedures, and 28 any other provision necessary for the implementation of the multi-parish audit 29 program.

respond to the notice within the thirty-day period, that parish shall be

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1	(3) Beginning January 1, 2024, the board shall report annually to the
2	Senate Committee on Revenue and Fiscal Affairs and the House Committee on
3	Ways and Means on the multi-parish audit program. The report shall include
4	the number of multi-parish audits that were requested by taxpayers and
5	initiated in each fiscal year, the number of multi-parish audits that were
6	completed in each fiscal year, and the number of multi-parish audits for which
7	each parish had opted in and opted out. The report may include
8	recommendations for legislation to streamline or improve the program and any
9	other information the board determines to be relevant. The report prepared
10	and provided pursuant to this Paragraph shall not violate any individual
11	taxpayer's confidential information under R.S. 47:1508.
12	I. Funding. (1) The board shall be funded through a dedication of a
13	percentage of the total statewide collections of local sales and use tax on motor
14	vehicles, as provided for in an agreement with local collectors and in accordance
15	with the limitations provided in this Paragraph and the budgetary policy as provided
16	in Paragraph (2) of this Subsection. Monies shall be payable monthly from the
17	current collections of the tax. The dedication shall be considered a cost of collection
18	and shall be deducted by the state and disbursed to the board prior to distribution of
19	tax collections to local taxing authorities. The dedication shall be in addition to any
20	fee imposed by the office of motor vehicles for the collection of the local sales and
21	use tax on motor vehicles. The amount to be disbursed to the board in any fiscal year
22	after Fiscal Year 2018-2019 shall not, under any circumstances and notwithstanding
23	any budget adopted by the board, exceed the following:
24	(a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.
25	(b) In Fiscal Year 2018-2019, one-quarter of one percent of the collections.
26	(c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of
27	one percent of the collections.
28	* * *

Section 2. This Act shall become effective on July 1, 2022; if vetoed by the governor

and subsequently approved by the legislature, this Act shall become effective on the day

following such approval by the legislature or July 1, 2022, whichever is later.

The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

SB 95 Reengrossed

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2022 Regular Session

Allain

<u>Present law</u> authorizes local tax collectors to enter into contracts for auditing purposes, requires the local collector to provide notice of the intent to audit to the taxpayer, and provides for notice requirements.

<u>Proposed law</u> retains <u>present law</u> and further requires the notice to advise the taxpayer that the taxpayer may request a multi-parish audit beginning July 1, 2023.

<u>Present law</u> authorizes local tax collectors to examine or investigate the place of business, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any taxpayer for purposes of enforcing the local sales and use tax laws.

<u>Proposed law retains present law</u> and requires collectors to notify taxpayers of the <u>proposed law</u> multi-parish audit program when notifying taxpayers of their intent to conduct an examination or investigation.

<u>Present law</u> authorizes the Uniform Local Sales Tax Board to advise local sales and use tax collectors concerning the imposition, collection, and administration of local sales and use taxes and issue private letter rulings to taxpayers.

Present law provides that all meetings of the board are subject to the open meetings law.

<u>Proposed law</u> authorizes the board to hold executive sessions for the discussion of matters involving confidential taxpayer information including policy advice, private letter rulings, and multi-parish audits.

<u>Proposed law</u> requires that the records and files of the board held for the purpose of enforcement of the tax laws of this state be treated as confidential and subject to penalty for unauthorized disclosure.

<u>Present law</u> authorizes the Uniform Local Sales Tax Board to develop and coordinate a multi-parish audit process for taxpayers located in the state that are registered to file and remit local sales tax in three or more parishes.

<u>Proposed law</u> requires the board to implement and coordinate the multi-parish audit program created by proposed law.

<u>Proposed law</u> creates the multi-parish audit program.

<u>Proposed law</u> authorizes taxpayers to request a multi-parish audit whenever the taxpayer:

- (1) Has a physical location in the state and registered to file and remit local sales and use taxes in three or more parishes.
- (2) Is not a recipient of a jeopardy assessment issued by any collector.
- (3) Is not engaged in a current audit by a collector for which a notice of intent to assess

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

was issued prior to July 1, 2022.

- (4) Agrees to promptly sign all necessary agreements to suspend prescription.
- (5) Is not involved in any litigation with any collector.

<u>Proposed law</u> authorizes a taxpayer that qualifies to request a multi-parish audit from the board within 30 days from the issuance of a notice of examination from all of the parishes in which the taxpayer engaged in taxable transactions during the audit period.

<u>Proposed law</u> requires the board to assist the taxpayer to identify all parishes in which the taxpayer does business and the board will send the multi-parish audit notice to all identified parishes. Parishes will have 30 days to opt in or opt out of the multi-parish audit. Further provides that if the parish collector does not respond to the notice within the 30-day period, that parish shall be considered to have opted out of the multi-parish audit.

<u>Proposed law</u> provides that parishes that were identified by the taxpayer that opt out of a multi-parish audit will be prohibited from auditing the same taxpayer until after the completion of the multi-parish audit.

<u>Proposed law</u> requires that the board hire and compensate auditors who conduct multi-parish audits and requires these auditors to follow <u>present law</u> standards of conduct for contract auditors hired by local tax collectors and any additional audit protocols of the board. Further provides that a local collector may furnish auditors at its own expense to assist the board's auditors in conducting the multi-parish audit.

<u>Proposed law</u> requires that the board facilitate consistent treatment of taxability of transactions between parishes involved in a multi-parish audit.

<u>Proposed law</u> requires that each parish participating in a multi-parish audit will review the audit and make an independent determination regarding the issuance of a notice of intent to assess and further provides that if issued a notice of intent to assess will interrupt prescription for the parish issuing the notice.

<u>Proposed law</u> provides that if a notice of intent to assess is issued, the board will coordinate an administrative hearing at the request of the taxpayer in which all parishes involved in the audit may participate.

<u>Proposed law</u> requires the board to develop audit procedures, hearing procedures, and any other provisions necessary for the implementation of the program.

<u>Proposed law</u> requires the board to report annually to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means beginning Jan. 1, 2024, on the number of multi-parish audits initiated and completed, the percentage of local audits that are multi-parish audits, and the number of times each parish has opted in of out of the multi-parish audits. The board may also report any recommended legislative changes to the program as well as other information the board determines to be relevant. Prohibits the report from violating any individual taxpayer's confidential information.

<u>Present law</u> authorizes the board to enter into contracts with local tax collectors to fund the operations of the board.

Effective July 1, 2022.

(Amends R.S. 47:337.36, 337.102(H) and (I)(1); adds R.S. 47:337.26(D)(1)(f) and 337.102(C)(10))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

- 1. Requires local collectors to provide notice to taxpayers that they may request a multi-parish audit beginning July 1, 2023.
- 2. Provides additional requirements for taxpayer qualifications to request a multi-parish audit.
- 3. Authorizes a taxpayer that qualifies to request a multi-parish audit within 30 days from the issuance of a notice of examination from all of the parishes in which the taxpayer engaged in taxable transactions during the audit period.
- 4. Extends the decision to opt in or opt out of the multi-parish audit <u>from</u> 15 to 30 days.
- 5. Authorizes a local collector to furnish auditors at its own expense to assist the board's auditors in conducting the multi-parish audit.
- 6. Requires the board to report annually to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means beginning Jan. 1, 2024.
- 7. Removes provisions relative to the collection of the local sales and use tax on motor vehicles subject to the Vehicle Registration License Tax Law.

Senate Floor Amendments to engrossed bill

- 1. Technical changes.
- 2. Provides that if a parish collector does not respond to a notice within the 30 day period, that parish shall be considered to have opted out of the multiparish audit.