

GREEN SHEET REDIGEST

HB 558

2023 Regular Session

Beaulieu

REVENUE DEPARTMENT. Provides for the collection and remittance of state and local sales and use taxes.

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DIGEST

Present law provides for the establishment of a uniform electronic local return and remittance system whereby a taxpayer may file a sales and use tax return of a taxing authority and remit any tax, interest, penalty, or other charge due by means of the uniform electronic local return and remittance system. The uniform electronic local returns and remittance system shall be established, managed, and supervised by the Dept. of Revenue (DOR) and shall be done at no charge to the taxpayer by the state, the collector, or any taxing authority levying a tax.

Present law establishes the Uniform Electronic Local Return and Remittance Advisory Committee (committee) which is under the jurisdiction of DOR and which is charged with advising DOR concerning the design, implementation, and operation of the uniform electronic local returns and remittance system. Present law authorizes the committee to make enforceable recommendations to DOR concerning the design, implementation, and operation of the uniform electronic local returns and remittance system.

Proposed law changes present law by transferring management and supervision of the uniform electronic local returns and remittance system, including the posting of certain information and links on a web page and providing for the staffing and equipment necessary to operate the system, from DOR to the La. Uniform Local Sales Tax Board (board) and moving jurisdiction over the committee from DOR to the board. Proposed law further requires the board to *maintain* the uniform electronic local returns and remittance system and authorizes the committee to make recommendations concerning the *maintenance* of the uniform electronic local returns and remittance system.

Present law provides for the membership, appointment, terms, duties, and responsibilities of the committee.

Proposed law retains present law but requires the committee to work in conjunction with the board *rather* than the secretary of DOR and removes the requirement that the chair of the board also serve as chair of the committee.

Proposed law expands membership of the committee from five members to seven members as follows:

- (1) An additional member who must be the head of a collector's office. This member shall be appointed by the board from a list of six names provided by the board of directors of the La. Association of Tax Administrators.
- (2) A representative of a business that is required to file sales and use tax returns for multiple collectors in the state, who shall be appointed by the governor from a list of three names provided by the La. Association of Business and Industry.

Present law provides for the board as a political subdivision of the state, for the purpose of promoting uniform procedures and policies concerning the collection and administration of local sales and use taxes, and to provide policy advice and support to local sales and use tax collectors. Present law provides for membership of the board, member appointments, and other aspects of membership on the board.

Present law provides for the authority of the board, including the following activities:

- (1) Support and advise local tax collectors concerning collection and administration of local sales and use taxes, including the prescription of uniform forms and model procedures, and the provision of educational and training programs for tax collectors.
- (2) Promulgate rules and regulations pursuant to present law (Administrative Procedure Act) relating to local sales and use tax, specifically including rules for a voluntary disclosure program and a uniform refund request and approval process.
- (3) Procure the development of computer software and equipment for the collection and administration of local sales and use taxes.
- (4) Implement and coordinate a multi-parish audit program.

Proposed law retains present law but adds authority for the board to impose a fee on any local collector that does not have an executed agreement with the board to provide for the costs incurred by the board for the creation, implementation, and on-going maintenance and operation of the uniform local return and remittance system. The amount of the fee shall be equal to the local collector's pro-rata share of the total actual costs incurred by the board for cost to implement and maintain the system based on the parish's share of the state's total population according to the most recent federal decennial census.

Proposed law provides that if the local collector does not pay the fee within 30 calendar days after imposition by the board, the board shall notify the La. Sales and Use Tax Commission for Remote Sellers of the delinquency, and the La. Sales and Use Tax Commission for Remote Sellers shall deduct the amount of the unpaid fee from the collector's next monthly distribution and remit the funds directly to the board.

Proposed law requires the board to do all of the following:

- (1) Manage, maintain, and supervise the uniform electronic local return and remittance system by which taxpayers can electronically file and remit sales and use taxes.
- (2) Design, implement, manage, maintain, and supervise a single remittance system whereby each taxpayer can remit state and local sales and use taxes through a single transaction. Proposed law requires any contract or the selection of a provider by the board to design a single remittance system, including the procurement of software, hardware, or any other technology or electronic platform, or service to be procured through the office of technology services and in compliance with present law.
- (3) Design, manage, maintain, and supervise a link on the board's web page for the posting of information required to be posted pursuant to present law (R.S. 47:337.23(I)).

Present law prohibits a political subdivision from imposing or increasing a sales and use tax unless that tax or increase is effective on the first of Jan., April, July, or Oct. and the secretary of DOR and the committee have been notified 30 days prior to the change becoming effective.

Proposed law changes present law by prohibiting tax, interest, or penalty rates in a taxing jurisdiction from being changed unless that tax or increase is effective on the first of Jan., April, July, or Oct. and the *board* and the committee have been notified 60 days prior to the change becoming effective. Proposed law defines a tax rate change as any of the following:

- (1) A rate change due to the levy of a new tax.
- (2) The change in a rate for an existing tax.
- (3) A rate change due to an annexation or other boundary modification by the taxing authority.

- (4) A rate change caused by the execution or expiration of a cooperative endeavor agreement to which the taxing authority is a party.
- (5) Implementation, amendment, or repeal of an optional sales tax exemption or exclusion.

Proposed law provides that failure or refusal of a taxing authority to provide timely notice to the single collector for a parish of a change in a tax, interest, or penalty rate shall be an absolute defense against any claim by a taxing authority against the single tax collector for the parish relating to such a change.

Present law requires each collector to provide information necessary to design and implement the uniform electronic local return and remittance system to the secretary of DOR and the committee within 90 days of receiving a written request by the secretary. Further requires each collector to follow data validation procedures established by the committee.

Proposed law retains present law but requires each collector to provide the requested information to the board and the committee *rather* than the secretary of DOR and extends the requirement for submission of information to information necessary to *maintain* the uniform electronic local return and remittance system.

Proposed law changes present law to require each collector to follow data validation procedures recommended by the committee and adopted by the board *rather* than procedures established by the committee.

Proposed law provides that a collector's failure or refusal to provide the requested information necessary for design and maintenance of the uniform electronic local return and remittance system shall be an absolute defense against any claim by a taxing authority or collector against the board or committee relating to the data utilized in the system.

Present law provides for funding of the board through a dedication of a percentage of the total statewide collections of local sales and use taxes on motor vehicles, not to exceed three-tenths of 1% of the collections.

Proposed law retains present law with respect to the funding of the board and the maximum amount of monies the board may deduct from collections; however, proposed law requires the board to fund the initial costs incurred for designing and implementing a single remittance system from the percentage of funding it currently receives.

Proposed law requires the state and local collectors to share the initial costs of designing and implementing a single remittance system; however, funding for initial costs shall not extend for more than 24 months. Thereafter, the board shall fund the costs associated with the management, maintenance, and supervision of the single remittance system from the funding it currently receives pursuant to present law subject to the state providing funding for any maintenance or modifications to the single remittance system requested by the state.

Proposed law requires DOR to continue operating the electronic local return and remittance system used and administered by the department as of Jan. 1, 2024, until the board certifies that the uniform electronic local return and remittance system is available for use by taxpayers. Further requires the uniform electronic local return and remittance system required to be available for use by taxpayers no later than Jan. 1, 2026.

Proposed law provides from January 1, 2024 through December 31, 2025, DOR's annual cost to continue to operate the electronic local return and remittance system shall be no more than \$504,000.

Proposed law requires any enhancements to the electronic local return and remittance system requested from January 1, 2024 through December 31, 2025 to be paid on a pro rata basis by the collector or collectors requesting the enhancement.

Effective Jan. 1, 2024.

(Amends R.S. 47:337.5, 337.23, 337.102(C) and (I)(1) and (2)(a) and 340(E)(2); Adds R.S. 47:337.102(I)(4))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Prohibit the tax, interest, or penalty rates in a taxing jurisdiction, from being changed unless the change is effective on the first day of Jan., April, July, or Oct., and the board and advisory committee have been notified in advance. Requires a taxing authority to notify the single collector for the parish of the date a change in a tax, interest, or penalty rate becomes effective.
2. Authorize the failure or refusal of a taxing authority to provide timely notice of a rate change to the single collector for a parish to be an absolute defense against a claim by a taxing authority against the single tax collector for the parish.
3. Define a "tax rate change" for purposes of proposed law.
4. Remove present law requirement that the chair of the board also serve as chair of the committee.
5. Remove attorney fees from the list of information excepted in present law from information that must be uniform on sales tax returns for all taxing authorities.
6. Require each collector to provide certain requested information to the board and the committee *rather* than the secretary of DOR and the committee and extend the requirement for submission of information to information necessary to *maintain* the uniform electronic local return and remittance system.
7. Authorize failure or refusal of a collector to provide requested information to the board or the advisory committee within the time frame required in present law to design and maintain the uniform electronic local return and remittance system to be an absolute defense against any claim by a taxing authority or collector against the board or advisory committee related to the data utilization system.
8. Add requirement that collectors follow the data validation procedures recommended by the advisory committee and adopted by the board.
9. Authorize the board to impose a fee on any local collector that does not have an executed agreement with the board for the creation, implementation, and on-going maintenance and operation of the uniform local return and remittance system and provide for the amount of the fee and a collection procedure if a collector does not pay the fee within 30 calendar days after imposition.
10. Require the Dept. of Revenue to continue to operate the electronic local return and remittance system used and administered by the department as of Jan. 1, 2024, until the board certifies that the uniform electronic local return and remittance system is available for use by taxpayers.
11. Require the board to implement the uniform electronic local return and remittance system to be available for use by taxpayers no later than Jan. 1, 2026.

The House Floor Amendments to the engrossed bill:

1. Increase the members of the committee who shall be the head of a collector's office from one to two. These members shall be appointed by the board from a list of six, *rather than* three, names provided by the board of directors of the La. Association of Tax Administrators.

2. Add a member to the committee who is a representative of a business that is required to file sales and use tax returns for multiple collectors in the state, who shall be appointed by the governor from a list of three names provided by the La. Association of Business and Industry.
3. Specify that the notice of a change in a sales tax rate shall be submitted to the board rather than the secretary of DOR.
4. Make technical changes.

Summary of Amendments Adopted by Senate

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

1. Provides from January 1, 2024 through December 31, 2025, the Department of Revenue's annual cost to continue to operate the electronic local return and remittance system shall be no more than \$504,000.
2. Requires any enhancements to the electronic local return and remittance system requested from January 1, 2024 through December 31, 2025 shall be paid on a pro rata basis by the collector or collectors requesting the enhancement.
3. Makes technical amendments.