

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 558

2023 Regular Session

Beaulieu

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

Synopsis of Senate Amendments

1. Limits the annual cost incurred by the Dept. of Revenue to continue to operate the electronic local return and remittance system from Jan. 1, 2024, through Dec. 31, 2025, to \$504,000.
2. Requires enhancements to the electronic local return and remittance system requested from Jan. 1, 2024, through Dec. 31, 2025, to be paid on a pro rata basis by the collector or collectors requesting the enhancement.
3. Deletes the requirement that the state and local collectors share the initial costs incurred for designing and implementing the single remittance system and deletes the limitation that the initial costs shall not extend for more than 24 months.
4. Changes the name of the reference to the professional organization for certified public accountants to the Society of La. Certified Public Accountants.
5. Makes technical changes.

Digest of Bill as Finally Passed by Senate

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 board to 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 limits the annual cost incurred by DOR to continue to operate the electronic local return and remittance system from Jan. 1, 2024, through Dec. 31, 2025, to \$504,000. Further requires enhancements to the electronic local return and remittance system requested between Jan. 1, 2024, and Dec. 31, 2025, to be paid for 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))