

HOUSE SUMMARY OF SENATE AMENDMENTS**HB 601****2017 Regular Session****Stokes**

TAX/SALES-USE, LOCAL: Establishes the Louisiana Uniform Local Sales Tax Board

Synopsis of Senate Amendments

1. Add provisions that establish the Louisiana Sales and Use Tax Commission for Remote Sellers, and provide for its membership, powers, and duties.

Digest of Bill as Finally Passed by SenateLa. Uniform Local Sales Tax Board

Proposed law establishes the La. Uniform Local Sales Tax Board (board) as a political subdivision of the state for the purpose of promoting certain 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 collections.

Proposed law provides that the board be composed of the following eight members:

- (1) The executive director of the La. Municipal Association.
- (2) The executive director of the School Boards Association.
- (3) The executive director of the Police Jury Association.
- (4) The executive director of the La. Sheriffs Association.
- (5) The head of a single parish collector's office appointed by the executive board of the La. Municipal Association.
- (6) The head of a single parish collector's office appointed by the board of directors of the La. School Boards Association.
- (7) The head of a single parish collector's office appointed by the executive board of the Police Jury Association of La.
- (8) The head of a single parish collector's office appointed by the executive committee of the La. Sheriffs Association.

Proposed law provides that the appointed members of the board shall serve at the pleasure of the appointing authority, and the initial appointments shall be made no later than Aug. 31, 2017.

Proposed law provides that the board members who are the executive directors of the various associations shall be considered the permanent members of the board, and are authorized to appoint designees to represent them at board meetings and to vote on their behalf.

Proposed law requires that the board be domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

Proposed law authorizes the board to do the following:

- (1) Support and advise local tax collectors concerning collection and administration of local taxes.

- (2) Promulgate rules and regulations pursuant to the 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) Enter into agreements and contracts with local government entities and tax collectors, the state, and various service providers such as legal counsel, auditors, and other activities.
- (4) Prescribe uniform forms and model procedures to be used by local sales and use tax collectors, which shall include a coordinated multi-parish audit process.
- (5) Procure the development of computer software and equipment for the collection and administration of local sales and use taxes.

Proposed 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:

- (1) In Fiscal Year 2017-2018, one-fifth of 1% of the collections.
- (2) In Fiscal Year 2018-2019, one-quarter of 1% of the collections.
- (3) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of 1% of the collections.

Proposed law provides that the actual amount to be disbursed to the board by the office of motor vehicles in any fiscal year shall be determined by the requirements of the annual budget adopted by the board for that year, subject to the limitations established in proposed law with regard to maximum percentages of tax collections.

Proposed law requires that by the first day of June each year the chairman of the board notify the commissioner of the office of motor vehicles regarding the amount to be disbursed to the board for the ensuing fiscal year based on the adopted budget, with the exception of Fiscal Year 2017-2018, when the date for the notification shall be determined by agreement of the chairman and the commissioner.

Proposed law requires the board to adopt a strategic plan for its operations no later than July 1, 2018.

Proposed law requires the board to provide for education and training of collectors of local sales and use tax, with at least one program being offered each year.

Proposed law authorizes the board to transfer monies to assist in funding the Local Tax Division of the Board of Tax Appeals in the event that state use tax collections under R.S. 47:302(K) are insufficient to fund the dedication for the operations of the Local Tax Division required under R.S. 47:302(K)(7).

Present law provides that a single transaction shall only be taxed once and provides for a process for requesting a refund in the event that taxes collected are remitted to the wrong taxing jurisdiction.

Proposed law creates an optional concursus process in which a dealer or taxpayer can remit the amount of tax to the Local Tax Division of the Board of Tax Appeals for deposit into their escrow account and request a determination by the board of the proper taxing jurisdiction.

La. Sales and Use Tax Commission for Remote Sellers

Proposed law establishes the La. Sales and Use Tax Commission for Remote Sellers (commission) as an independent agency within the Dept. of Revenue for the administration

and collection of state and local sales and use taxes related to remote sales, and to provide for policy uniformity and simplicity in sales and use tax compliance for remote sellers.

Proposed law provides that the commission shall be composed of eight members as follows:

- (1) The secretary of the Dept. of Revenue.
- (2) Three employees of the Dept. of Revenue appointed by the secretary.
- (3) Four appointed members appointed to serve from the La. Uniform Local Sales Tax Board.

Proposed law requires the commission to be domiciled in East Baton Rouge Parish, but may hold meetings at any location within the state.

Proposed law requires the commission to employ an executive director to direct the day-to-day operations of the commission and to develop procedures to govern its day-to-day operations in accordance with the Administrative Procedures Act.

Proposed law provides that the commission serve as the single entity in La. required under any federal law that may require remote sellers to collect and remit sales and use tax on La. sales. To accomplish this, activities of the commission shall include:

- (1) Establish the minimum tax administration, collection, and payment requirements required by federal law with respect to the collection and remittance of sales and use tax imposed on remote sales.
- (2) Establish a fiscal agent solely for the purpose of remote seller remittances.
- (3) Serve as the single entity in La. to require remote sellers to collect and remit to the commission sales and use taxes on remote sales sourced to La.

Proposed law provides for definitions for purposes of proposed law.

Proposed law establishes a method of funding the operations of the commission through a dedication of a percentage of the state and local sales and use taxes collected on remote sales by the commission, not to exceed 1%. However, the commission shall not be authorized to utilize these monies unless and *until a federal law authorizing states to require remote sellers and their agents to collect state and local sales and use taxes* on their sales has been enacted and becomes effective.

Proposed law provides for the powers and duties of the commission, to include:

- (1) To serve as the single entity within the state responsible for all state and local sales and use tax collection and administration for remote sales sourced to La., and to remit local tax collections to the respective collector monthly
- (2) To assign and direct a single audit of remote sellers for all sales and use taxes.
- (3) To serve as the single entity within the state to represent both the state and local taxing authorities in taking appropriate action to enable La. to participate in programs designed to allow La. to more efficiently enforce and collect state and local sales and use taxes on sales made by a remote seller.
- (4) To conduct administrative hearings as requested by aggrieved remote sellers and render decisions following hearings.
- (5) To require remote sellers to register with the commission.

- (6) To provide to the single tax collector for each parish an annual report of revenues collected and distributed.
- (7) To enter into agreements to waive or suspend prescription of state and local taxes.
- (8) With the consent of the affected local taxing authority, to issue notices of intent to assess and notices of assessments, to enforce collection of local taxes by distraint and sale, and to institute summary proceedings or ordinary proceedings for collection of local taxes.

Proposed law provides that nothing in proposed law shall be construed to extend the authority of the commission beyond what is provided in proposed law, including:

- (1) Authorize or require any expenditure unless and until a federal law authorizing states to require remote sellers and their agents to collect state and local sales and use taxes on their sales in each state has been enacted and becomes effective.
- (2) Limit the right of local taxing authorities to levy and collect sales and use taxes.
- (3) Authorize the commission to exercise any right or perform any function presently exercised by local sales and use tax authorities under present law, including the granting of local tax amnesty.
- (4) Require local taxing authorities to make refunds, give tax credits, waive penalties, or waive audit costs.
- (5) Authorize the commission to serve as a central state collection agency for local sales and use taxes.
- (6) Limit any statutory and ordinal provisions in place that require dealers and taxpayers, with respect to non-remote sales, to pay and remit directly to the single sales and use tax collector in each parish the sales and use taxes due to each local taxing authority within each parish.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d), and (e), 337.49, 337.81(A)(1), 337.87(C)(1)(intro. para.), 337.92(1), and 1407(3); Adds R.S. 36:459(A), R.S. 47:337.86(E)(3), 337.87(C)(1)(d), 337.102, 339, and 340)