

GREEN SHEET REDIGEST

HB 601

2017 Regular Session

Stokes

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

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

DIGEST

Proposed law creates the La. Uniform Local Sales Tax Board (board) and grants the board the following authority:

- (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 with local tax collectors.
- (4) Enter into contracts for the services of legal counsel, analysts, auditors, appraisers, and witnesses, as well as any agency or department of the state or any state or local political subdivision.
- (5) Prescribe uniform forms and model procedures to be used by local sales and use tax collectors.
- (6) Procure the development of computer software and equipment for the collection and administration of local sales and use taxes.
- (7) Employ an executive director, and any necessary agents, assistants, auditors, clerks, inspectors, investigators, or other experts and employees.
- (8) Develop a coordinated multi-parish audit process.

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 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 Sheriffs Association.

Proposed law provides that members of the board shall serve at the pleasure of the appointing authority.

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 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:

- (a) In Fiscal Year 2017-2018, one-fifth of 1% of the collections.
- (b) In Fiscal Year 2018-2019, one-quarter of 1% of the collections.
- (c) 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 made 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.

Proposed law creates the La. Sales and Use Tax Commission for Remote Sellers 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 for the promotion of uniformity and simplicity in sales and use tax compliance for remote sellers.

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.

Proposed law provides that the La. Sales and Use Tax Commission for Remote Sellers is to 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 selected to serve on 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 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 seller 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 administration for remote sales sourced to La.
- (2) To serve as the central, single agency to which remote sellers shall make state and local sales and use tax remittances.
- (3) To assign and direct a single audit of remote sellers for the state and all local taxing authorities.
- (4) To serve as the single state of La. agency 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.
- (5) To conduct administrative hearings as requested by aggrieved remote sellers and render decisions following hearings.
- (6) To require remote sellers to register with the commission.
- (7) To provide to the single tax collector for each parish an annual report of revenues collected and distributed.
- (8) To enter into agreements to waive or suspend prescription of state and local taxes.
- (9) With the consent of the affected local taxing authority, issue notices of intent to assess, notices of assessments, enforce collection of local taxes by distraint and sale, and 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 as provided in the Constitution of Louisiana, statutory law, and jurisprudence.
- (3) Authorize the commission to exercise any right or perform any function presently exercised by local sales and use tax authorities under present law.
- (4) Create, repeal, or amend any local tax exclusions or exemptions.
- (5) Authorize the commission to grant local tax amnesty.
- (6) Authorize the commission to promulgate rules, regulations, issue private letter rulings or give to dealers or taxpayers other advice that is inconsistent with the Constitution of Louisiana, statutory law, or controlling jurisprudence.
- (7) Require local taxing authorities to make refunds, give tax credit, waive penalties, or waive audit costs.
- (8) Extend to any local taxes any state exclusions, exemptions, credits, rebates, or other tax relief provisions that do not presently apply to local taxes.
- (9) Authorize the commission to serve as a central state collection agency for local sales and use taxes.
- (10) Limit any statutory and ordinal provisions in place as of the effective date of this Act that require dealers and taxpayers, with respect to non-remote sales, to pay and remit directly to the single sales and use 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)

Summary of Amendments Adopted by House

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

1. Add authority for members of the La. Uniform Local Sales Tax Board (board) to appoint a designee for purposes of attendance at a tax protest hearing or a meeting of the board.
2. Change the term for board member appointments from a certain number of years to at the pleasure of the appointing authority.
3. Change the limitations on the annual amount of funding the board may receive.
4. Add provisions concerning the board's budget.

The House Floor Amendments to the engrossed bill:

1. Remove provisions establishing the Louisiana Sales and Use Tax Commission for Remote Sellers.

The House Floor Amendments to the reengrossed bill:

1. Add a requirement that the board adopt a strategic plan for its operations no later than July 1, 2018.

2. Add a requirement that the board provide for the education and training of local sales and use tax collectors, with at least one program being offered each fiscal year.

Summary of Amendments Adopted by Senate

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

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