

2017 Regular Session

HOUSE BILL NO. 601

BY REPRESENTATIVE STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES-USE, LOCAL: Establishes the Louisiana Uniform Local Sales Tax Board and the Louisiana Sales and Use Tax Commission for Remote Sellers

1 AN ACT

2 To amend and reenact R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d),  
3 and (e), 337.49, 337.81(A)(1), 337.87(C)(1)(introductory paragraph), 337.92(1), and  
4 1407(3) and to enact R.S. 36:459(A), R.S. 47:337.86(E)(3), 337.87(C)(1)(d), and  
5 337.102, relative to sales and use tax administration; to provide with respect to a  
6 concursus proceeding for determination of the proper local taxing jurisdiction; to  
7 establish the Louisiana Uniform Local Sales Tax Board as a political subdivision of  
8 the state for purposes of uniformity and efficiency of imposition, collection, and  
9 administration of local sales and use taxes; to provide for membership of the board;  
10 to provide for powers and duties of the board; to establish a dedication of revenue  
11 for support of operations of the board; to provide for effectiveness; and to provide  
12 for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 36:459(A) is hereby enacted to read as follows:

15 §459. Transfer of agencies or their powers to Department of Revenue

16 A. The Louisiana Sales and Use Tax Commission for Remote Sellers is  
17 placed within the Department of Revenue and shall exercise and perform its powers,  
18 duties, functions, and responsibilities as provided for agencies transferred in  
19 accordance with the provisions of R.S. 36:801.1. The secretary and the Department  
20 of Revenue shall in no way interfere with, review, or change the decisions or  
21 operations of the agency so placed.

22 \* \* \*

1 Section 2. R.S. 47:302(K)(6), 337.2(C)(1)(a), 337.19(A), 337.23(B)(1)(b), (d), and  
2 (e), 337.49, 337.81(A)(1), 337.87(C)(1)(introductory paragraph), 337.92(1), and 1407(3) are  
3 hereby amended and reenacted and R.S. 47:337.86(E)(3), 337.87(C)(1)(d) and 337.102 are  
4 hereby enacted to read as follows:

5 §302. Imposition of tax

6 \* \* \*

7 K. An additional tax shall be levied as follows:

8 \* \* \*

9 (6) The taxes levied under this Subsection shall be collected by the  
10 Department of Revenue, advised by ~~a sales and use tax commission consisting of~~  
11 ~~nine members appointed as follows: two members appointed by the Louisiana~~  
12 ~~Municipal Association; two members appointed by the Louisiana School Boards~~  
13 ~~Association; two members appointed by the Police Jury Association of Louisiana;~~  
14 ~~two members appointed by the Louisiana Sheriffs' Association; and one member~~  
15 ~~appointed by the Louisiana Association of Tax Administrators~~ the Louisiana  
16 Uniform Local Sales Tax Board. The secretary shall assess a collection fee, not to  
17 exceed one percent of the proceeds of the tax, as reimbursement for the actual cost  
18 of collection of the tax. The department shall keep the ~~commission board~~ board informed  
19 on a regular basis of the collection and distribution of the taxes collected, and the  
20 ~~commission board~~ board shall receive a copy of the executive budget submission of the  
21 Local Tax Division of the Board of Tax Appeals.

22 \* \* \*

23 §337.2. Intent; application and interpretation of Chapter

24 \* \* \*

25 C. Notwithstanding any other law to the contrary, in order to insure  
26 taxpayers of uniformity of tax collection, the regulations applicable to the sales and  
27 use tax of the tax authorities provided for in this Chapter shall be the following:

28 (1) For purposes of this Section, the following terms shall have the following  
29 definitions:

1 (a) "Board" means the ~~board of directors of the Louisiana Association of Tax~~  
2 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board created by R.S.  
3 47:337.102.

4 \* \* \*

5 §337.19. Withholding of state funds; assessment and collection standards

6 A. The secretary of the Department of Revenue, after consultation with  
7 ~~representatives of the Louisiana Municipal Association, the Louisiana Police Jury~~  
8 ~~Association, the Louisiana School Boards Association, and the Louisiana~~  
9 ~~Association of Tax Administrators~~ the Louisiana Uniform Local Sales Tax Board,  
10 is hereby authorized and directed to promulgate rules, pursuant to the enforcement  
11 of R.S. 47:306(D). Such rules shall also apply to R.S. 47:337.18(C). The municipal  
12 and parish permitting agencies of each parish as specified in R.S. 47:306(D)(2)(a)  
13 and R.S. 47:337.18(C)(2)(a) shall comply with rules authorized by this Subsection  
14 within six months of the effective date of such rules.

15 \* \* \*

16 §337.23. Uniform electronic local return and remittance system; official record of  
17 tax rates, and exemptions; filing and remittance of local sales and use taxes;  
18 penalties for violations

19 \* \* \*

20 B.(1) The system by which such taxpayers file electronically and pay their  
21 taxes and by which the information provided for in Subsection I is to be posted on  
22 the internet shall be established, managed, and supervised by the secretary of the  
23 Department of Revenue. The Uniform Electronic Local Return and Remittance  
24 Advisory Committee shall provide advice and may make enforceable  
25 recommendations to the secretary for his consideration with regard to the design,  
26 implementation, and operation of the system in the manner provided for by this  
27 Section. The advisory committee is hereby created within the Department of  
28 Revenue and shall be composed of the following members:

29 \* \* \*



1 least five business days prior to the date of the hearing. The chairman of the board  
2 may appoint a designee to serve in the place of a board member for this purpose. A  
3 person eligible to serve as a designee shall be either a full-time employee of the  
4 board or the head of a single parish collector's office.

5 \* \* \*

6 §337.81. Appeals from the collector's disallowance of refund claim

7 A.(1) If the collector fails to act on a properly filed claim for refund or credit  
8 within one year from the date received by him or by the Louisiana Uniform Local  
9 Sales Tax Board or if the collector denies the claim in whole or in part, the taxpayer  
10 claiming such refund or credit may within thirty days of the notice of disallowance  
11 of the claim request a hearing with the collector for redetermination. The collector  
12 shall render a decision within thirty days of the request by the taxpayer.

13 \* \* \*

14 §337.86. Credit for taxes paid

15 \* \* \*

16 E.

17 \* \* \*

18 (3) Optional concursus proceeding.

19 (a) When a taxpayer or dealer has received a formal notice of assessment  
20 from two or more Louisiana local collectors having a competing or conflicting claim  
21 to sales or use tax on a transaction, the taxpayer or dealer is hereby authorized to file  
22 a concursus proceeding before the Local Tax Division of the Louisiana Board of Tax  
23 Appeals, hereinafter referred to as "board". If a concursus is filed, the taxpayer or  
24 dealer, as applicable, shall pay the amount of sales tax collected or, if no tax was  
25 collected, the amount of tax due at the highest applicable rate, together with penalty  
26 and interest, into the Escrow Account for the Registry of the Board of Tax Appeals.  
27 The proceeding shall name as defendants all parishes that are parties to the dispute.  
28 The filing of a concursus proceeding in compliance with the provisions of this  
29 Paragraph shall prevent collection of assessment from the taxpayer or dealer. No

1 additional interest or penalties shall accrue against the taxpayer on the amount of  
2 payment made pursuant to this Paragraph following the date of such payment. The  
3 board's judgment may order the tax payment held in escrow to be disbursed to the  
4 proper parish under the law and ordinances applicable to the case, and may also  
5 order the payment of any refund due to the taxpayer or dealer.

6 (b) Any refund ordered by the board to a dealer who collected the tax shall  
7 further stipulate that the dealer promptly issue refunds to their customers as  
8 necessary, and that the dealer shall not benefit from any excess tax collected as a  
9 result of filing the concursus proceeding.

10 (c) A suspensive appeal from any decision or judgment of the board rendered  
11 pursuant to this Paragraph shall be filed with the court of appeal of the parish of the  
12 local collector against whom the appeal is taken. However, if there are multiple  
13 appellees from different circuits, the appeal shall be filed with the court of appeal for  
14 the parish where the taxpayer is domiciled, or if the taxpayer is not domiciled in  
15 Louisiana, then with the Louisiana Court of Appeal, First Circuit.

16 (d) No provision of this Paragraph shall require any taxpayer or dealer to file  
17 a concursus proceeding as authorized by this Paragraph, and no penalty shall be  
18 levied solely on the failure to use this optional procedure.

19 (e) All parties shall be responsible for their respective costs including but not  
20 limited to travel expenses, filing fees, and attorney fees.

21 §337.87. Post-session update procedure

22 \* \* \*

23 C.(1) Prior to the placement of all or a portion of an Act into this code, the  
24 institute shall provide to the following organizations for their review the Acts or  
25 portions of Acts ~~which~~ that it intends to place within the code:

26 \* \* \*

27 (d) The Louisiana Uniform Local Sales Tax Board.

28 \* \* \*

1 §337.92. Definitions

2 As used in this Part:

3 (1) "Board" means the ~~board of directors of the Louisiana Association of Tax~~  
4 ~~Administrators~~ Louisiana Uniform Local Sales Tax Board as defined in R.S.  
5 47:337.2 ~~which~~ that is required to develop rules and regulations pursuant to Chapter  
6 2-D of the Uniform Local Sales Tax Code unless otherwise specified.

7 \* \* \*

8 §337.102. Louisiana Uniform Local Sales Tax Board; creation; membership;  
9 powers and duties

10 A. Creation of the board. The Louisiana Uniform Local Sales Tax Board,  
11 hereinafter referred to in this Section as "board", is hereby created as a political  
12 subdivision of the state as such term is defined in the Constitution of Louisiana. The  
13 board shall be subject to all legal requirements applicable to a public body, including  
14 procurement, ethics, record retention, fiscal and budgetary controls, and legislative  
15 audit in the same manner as any local political subdivision. The domicile of the  
16 board shall be East Baton Rouge Parish. The board may meet and conduct business  
17 at other locations within the state of Louisiana.

18 B. Board membership and organization. (1) The board shall consist of eight  
19 members, as follows:

20 (a) The executive director of the Louisiana Municipal Association.

21 (b) The executive director of the Louisiana School Boards Association.

22 (c) The executive director of the Police Jury Association of Louisiana.

23 (d) The executive director of the Louisiana Sheriff's Association.

24 (e) The head of a single parish collector's office appointed by the executive  
25 board of the Louisiana Municipal Association.

26 (f) The head of a single parish collector's office appointed by the board of  
27 directors of the Louisiana School Boards Association.

28 (g) The head of a single parish collector's office appointed by the executive  
29 board of the Police Jury Association of Louisiana.

1           (h) The head of a single parish collector's office appointed by the executive  
2           committee of the Louisiana Sheriff's Association.

3           (2) The board members established in Subparagraphs (B)(1)(a) through (d)  
4           of this Section shall be permanent members of the board.

5           (3) The board member appointments provided for in Subparagraphs (B)(1)(e)  
6           through (h) of this Section shall be made no later than August 31, 2017. Employees,  
7           legal counsel, and vendors of a single parish collector's office shall not be eligible  
8           for appointment to the board. Members appointed to the board pursuant to  
9           Subparagraphs (B)(1)(e) through (h) of this Section shall serve at the pleasure of the  
10           respective appointing authority. The appointing authorities shall coordinate their  
11           appointments to the board in order that the board's membership is representative of  
12           the diverse regions of the state and to ensure that no two members represent a single  
13           parish.

14           (4) A member of the board may appoint a designee to attend board meetings  
15           and vote by proxy on his behalf, the procedure for which shall be determined by rule  
16           of the board. A person eligible to serve as a designee shall be either a full-time  
17           employee of an appointing authority or the head of a single parish collector's office.

18           (5) The board shall hold its organizational meeting no later than October 15,  
19           2017, at which time it shall elect a chairman, vice chairman, and such other officers  
20           as determined necessary at the first meeting.

21           (6) Board members shall serve without compensation, but may be  
22           reimbursed for reasonable expenses incurred in the performance of their duties.

23           C. Powers and duties of the board. The board may:

24           (1) Support and advise local sales and use tax collectors concerning the  
25           imposition, collection, and administration of local sales and use taxes authorized  
26           under the constitution and laws of this state.

27           (2) Promulgate rules and regulations in accordance with Part H of Chapter  
28           2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

29           (3) Enter into agreements with local tax collectors.



1           (4) Enter into contracts for the services of legal counsel, analysts, auditors,  
2           appraisers, and witnesses, as well as any agency or department of the state or any  
3           state or local political subdivision.

4           (5) Issue policy advice on matters concerning the imposition, collection, and  
5           administration of local sales and use tax.

6           (6) Prescribe uniform forms and model procedures to be used by local sales  
7           and use tax collectors.

8           (7) Procure the development of computer software and equipment for the  
9           collection and administration of local sales and use taxes.

10          (8) Employ an executive director, and any necessary agents, assistants,  
11          auditors, clerks, inspectors, investigators, or other experts and employees.

12          (9) Issue private letter rulings when requested pursuant to this Section as to  
13          the imposition, collection, and administration of local sales and use tax.

14           D. Issuance of policy advice.

15           (1) The board may issue policy advice intended to provide guidance to  
16           taxpayers or dealers with respect to any local sales and use tax issue. A taxpayer or  
17           dealer may request a private letter ruling from the board by sending a certified letter  
18           to the board and to the respective local tax collectors. Prior to the issuance of a  
19           private letter ruling, the board may solicit additional information from the respective  
20           local tax collectors. A private letter ruling issued by the board shall be transmitted  
21           by certified mail simultaneously to both the requesting party and the respective local  
22           tax collectors. A private letter ruling shall be posted in redacted form on the board's  
23           website within ten days of its issuance.

24           (2) If a request for a private letter ruling involves a single local tax collector,  
25           the tax collector may elect to decline to participate in the private letter ruling process  
26           provided for in this Subsection with respect to that request for a private letter ruling  
27           by notifying the board and the requesting party within ten days of receipt of the  
28           request. If the board receives this notification, the board shall decline the request for  
29           the ruling.

1           (3) Except as otherwise provided in Paragraph (2) of this Subsection, a  
2           private letter ruling shall bind the decision or discretion of a local tax collector  
3           served with notice of the request pursuant to Paragraph (1) of this Subsection.  
4           However, any party to the dispute may seek a review of the ruling within twenty  
5           days of the date of its certified mailing by filing a petition to the Local Tax Division  
6           of the Louisiana Board of Tax Appeals. The only grounds for overturning a private  
7           letter ruling on appeal shall be that the ruling is contrary to law or a controlling  
8           ordinance, conflicts with pre-existing jurisprudence, or otherwise is clearly arbitrary  
9           and capricious. Any private letter ruling that is appealed shall be stayed until the  
10           appeal is resolved by final judgment or by settlement.

11           E. Rulemaking. The board, after consultation with the Board of Directors  
12           of the Louisiana Association of Tax Administrators, hereinafter referred to in this  
13           Section as "LATA", is hereby authorized and directed to promulgate rules and  
14           regulations pursuant to R.S. 47:337.94. The board shall request a non-binding  
15           recommendation from LATA prior to the issuance of a rule or regulation. The  
16           recommendation shall be submitted to the board within thirty days of the request, and  
17           a failure on the part of LATA to provide a recommendation shall not preclude the  
18           promulgation of a rule or regulation by the board.

19           F. Voluntary disclosure program. The board shall promulgate rules pursuant  
20           to the Administrative Procedure Act to establish a uniform voluntary disclosure  
21           program for taxpayers seeking relief from penalties in cases where a liability to more  
22           than one local sales and use tax collector is owed. The board shall accept  
23           applications from taxpayers seeking to participate in the program and may issue a  
24           recommendation for the waiver of penalties for taxpayers who have complied with  
25           program requirements, including full payment of taxes and interest. This  
26           recommendation shall be binding on local tax collectors absent fraud, material  
27           misrepresentation, or any such misrepresentation of the facts by the taxpayer.

28           G. Refunds. The board shall establish uniform standards and forms for the  
29           purpose of refund requests for all local sales and use taxes. The refund denial form

1 shall include notice to taxpayers that a refund request denial is appealable to the  
2 Board of Tax Appeals, and shall provide specific information as to deadlines and  
3 other requirements as provided by law for such an appeal. The board shall serve as  
4 the central filing agency for all refund claims involving two or more Louisiana  
5 parishes having transactions similar in fact. The filing of a refund claim with the  
6 board shall suspend the running of prescription. The board shall notify the respective  
7 tax collector within fifteen days of receipt of a refund request. The function of the  
8 board with respect to refund requests shall be ministerial in nature and the board  
9 shall have no authority over the approval or denial of a request.

10 H. Multi-parish audits. The board may develop a coordinated multi-parish  
11 audit process which may be requested by a taxpayer having a location in the state  
12 and registered to file and remit local sales and use taxes pursuant to a local ordinance  
13 in at least three parishes. If a coordinated multi-parish audit program is developed,  
14 the program shall be implemented through a pilot program prior to statewide  
15 availability.

16 I. Funding. (1) The board shall be funded through a dedication of a  
17 percentage of the total statewide collections of local sales and use tax on motor  
18 vehicles, in accordance with the limitations provided in this Paragraph and the  
19 budgetary policy as provided in Paragraph (2) of this Subsection. Monies shall be  
20 payable monthly from the current collections of the tax. The dedication shall be  
21 considered a cost of collection and shall be deducted by the state and disbursed to the  
22 board prior to distribution of tax collections to local taxing authorities. The  
23 dedication shall be in addition to any fee imposed by the office of motor vehicles for  
24 the collection of the local sales and use tax on motor vehicles, and the total amount  
25 to be disbursed to the board from this dedication in any fiscal year shall not exceed:

26 (a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.

27 (b) In Fiscal Year 2018-2019, one-quarter of one percent of the collections.

28 (c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of  
29 one percent of the collections.



1 or local sales and use tax law, as provided in R.S. 47:337.101(A)(2), and petitions  
 2 concerning the validity of a collector's rules, regulations, or private letter rulings, as  
 3 provided in R.S. 47:337.102.

4 \* \* \*

5 Section 3. This Act shall become effective upon signature by the governor or, if not  
 6 signed by the governor, upon expiration of the time for bills to become law without signature  
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 9 effective on the day following such approval.

---

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 601 Reengrossed

2017 Regular Session

Stokes

**Abstract:** Establishes the La. Uniform Local Sales Tax Board for uniformity and efficiency of collection and administration of sales and use taxes.

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 Sheriff's 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 Sheriff's 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 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.

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), and 337.102)

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.