

2016 Regular Session

HOUSE BILL NO. 826

BY REPRESENTATIVES ABRAMSON AND JIM MORRIS

TAX/SALES & USE: Requires centralized collection of local sales and use taxes by the secretary of the Dept. of Revenue

1 AN ACT

2 To amend and reenact R.S. 47:337.2(C)(3), (4)(a)(ii), and (b)(i)(bb)(II), 337.6(A), 337.16,  
3 337.25, 337.64(A), 337.80(A)(introductory paragraph), and 337.87(A), and to enact  
4 R.S. 47:337.22(E) and 337.23(L) and to repeal R.S. 47:337.13, 337.13.1, and 337.14,  
5 relative to the collection of local sales and use taxes; to require that all sales and use  
6 taxes levied by a local taxing authority in the state be collected, enforced, and  
7 administered by the state; to require the establishment of special accounts within the  
8 state treasury; to provide for the disposition of local sales and use taxes collected by  
9 the state; to require reporting; to provide for certain administrative remedies; to  
10 authorize rulemaking; to repeal certain provisions relating to local collection of sales  
11 and use taxes; to provide for effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1 R.S. 47:337.2(C)(3), (4)(a)(ii), and (b)(i)(bb)(II), 337.6(A), 337.16, 337.25,  
14 337.64(A), 337.80(A)(introductory paragraph), and 337.87(A) are hereby amended and  
15 reenacted, and R.S. 47:337.22(E) and 337.23(L) are hereby enacted read as follows:

16 §337.2. Intent; application and interpretation of Chapter

17 \* \* \*

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

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(3) If no regulation concerning a common sales tax law has been adopted by the secretary, any ~~collector~~ representative of a local taxing authority may file a written request with the secretary for the adoption of such regulation in the manner provided for in Paragraph (4) of this Subsection.

(4)(a) No regulatory action of the Department of Revenue concerning a common sales tax law shall be applicable to local tax authorities unless such regulatory action is proposed and adopted in accordance with the provisions of this Paragraph. The procedure provided for in this Paragraph shall be specifically applicable to the following regulatory actions:

\* \* \*

(ii) Written requests by ~~a collector~~ a representative of a local taxing authority for the adoption of a regulation as provided for in Paragraph (3) of this Subsection.

\* \* \*

(b)(i) Any regulatory action concerning the regulations provided for in this Section shall be the same as is provided for in the Administrative Procedure Act, except as follows:

\* \* \*

(bb)

\* \* \*

(II) In the same manner, the secretary shall provide for the receipt of ~~input~~ comment from a representative of any ~~collector~~ local taxing authority who has made a written request for the amendment of a regulation as provided for in Paragraph (2) of this Subsection or for the adoption of a regulation as provided for in Paragraph (3) of this Subsection. In that case, if the ~~collector~~ representative also requests a meeting, the secretary shall convene ~~such a meeting to receive such input from the collector~~ for that purpose within fifteen days of the request, ~~unless another time is agreed to by the collector,~~ at a time and place ~~of the secretary's choosing~~ agreeable to both; however, if representatives of more than two ~~collectors~~ local taxing

1 authorities have made a request for a meeting, they shall select not more than two  
2 ~~representatives~~ persons to participate in the meeting on their behalf.

3 \* \* \*

4 §337.6. Definitions

5 A. The following words, terms, and phrases used in this Chapter shall have  
6 the meaning ascribed to them in this Subsection, unless the context clearly indicates  
7 a different meaning:

8 (1) "Collector" means the secretary of the Department of Revenue.

9 ~~(1)~~ (2) "Local ordinance", for purposes of this Chapter, shall include both  
10 ordinances and resolutions pursuant to which a political subdivision levies a sales  
11 and use tax and otherwise provides with respect thereto.

12 (3) "Local taxing authority" or "taxing authority" means a political  
13 subdivision.

14 ~~(2)~~ (4) "Political subdivision" means a parish, municipality, and any other  
15 unit of local government, including a school board and a special district, authorized  
16 by law to levy ~~and collect~~ a sales and use tax.

17 ~~(3)~~ (5) "Secretary" or "secretary of revenue" means the secretary of the  
18 Department of Revenue for the state of Louisiana.

19 \* \* \*

20 §337.16. Authority to collect local sales and use taxes

21 A. ~~The secretary of the Department of Revenue is hereby authorized to~~  
22 ~~contract with all the governing authorities of any taxing authority, at the request of~~  
23 ~~the subdivisions, to collect and enforce the collection of any sales and use tax, and~~  
24 ~~related penalty, interest, or other charge, levied by the taxing authorities. In order~~  
25 ~~to collect and enforce any such tax, the secretary is vested with all the power and~~  
26 ~~authority conferred by this Title. Notwithstanding any provision of law to the~~  
27 contrary, beginning July 1, 2017, all sales and use taxes levied by a local taxing  
28 authority shall be collected, enforced, and administered by the state through the  
29 secretary of the Department of Revenue. The secretary shall adopt rules and

1 regulations and prescribe forms for the collection, enforcement, and administration  
2 of the local taxes that are consistent with the provisions of this Part, and Parts E  
3 through H of this Chapter.

4 ~~B. The contract between the Department of Revenue and such taxing~~  
5 ~~authorities shall be executed by the secretary of the Department of Revenue and the~~  
6 ~~proper official or officials of the governing authorities of the taxing authorities. The~~  
7 ~~contract shall provide the manner, the charges and costs of collection, if any, to be~~  
8 ~~paid by the taxing authorities, and such other terms and conditions necessary to~~  
9 ~~effectuate the contract. No later than February 1, 2017, the single collector or the~~  
10 ~~central commission for each parish shall provide the secretary with a copy of all~~  
11 ~~local ordinances affecting the imposition of sales and use taxes in the parish and~~  
12 ~~shall notify the secretary within ten days after approval of any action imposing a new~~  
13 ~~tax or otherwise affecting the imposition of an existing tax. The notice shall be no~~  
14 ~~later than seventy-five days prior to the effective date of the change and shall specify~~  
15 ~~the tax rate or base change, the time period during which the change shall be in~~  
16 ~~effect, and include a copy of the local tax ordinance and any other information as~~  
17 ~~may be required by the secretary.~~

18 C. Upon receipt, the local sales and use taxes collected pursuant to this  
19 Section shall be deposited into special accounts in the state treasury which shall be  
20 established for each local taxing authority. Each special account shall be interest  
21 bearing, with the interest accruing in favor of the respective taxing authority. Monies  
22 in the special accounts shall not be considered state monies, and shall not be subject  
23 to appropriation. Monies in each account shall be remitted to the respective local  
24 taxing authority no later than thirty days after receipt of the taxes by the secretary.

25 D. The secretary may recover expenses incurred that are associated with the  
26 cost of collection of local taxes on a proportional basis from each local taxing  
27 authority to whom sales and use taxes are remitted pursuant to this Section, not to  
28 exceed one percent of the tax collected for each local taxing authority.

1           E.(1) The secretary shall on a quarterly basis provide a report of the taxes  
2           collected and the cost of collection to each separate local taxing authority for which  
3           sales and use taxes were collected and remitted pursuant to this Section. The report  
4           shall include the name, address, and account number of each person from whom the  
5           secretary has collected a tax payment, or to whom he has made a refund payment or  
6           credit, during the quarter covered by the report.

7           (2) Upon the request of a local taxing authority, the secretary shall make an  
8           additional quarterly report to the taxing authority that includes the amount of tax due  
9           from each person identified by the secretary as doing business in the jurisdiction of  
10          the taxing authority who has failed to pay the taxes determined to be due by the  
11          secretary. The additional report shall state whether there has been a partial tax  
12          payment by the delinquent taxpayer and whether the taxpayer is also delinquent in  
13          the payment of state sales and use taxes. The report shall also include an explanation  
14          of any action taken by the secretary to collect the delinquent taxes owed to the taxing  
15          authority.

16          (3) If the local taxing authority determines that a person doing business in  
17          its jurisdiction is not included in the report, the taxing authority may provide to the  
18          secretary the name and address of the person, and within ninety days of receipt of the  
19          information, the secretary shall send one of the following to the taxing authority:

20                (a) An explanation as to why the person is not obligated to pay the tax.

21                (b) A statement that the person is obligated to pay the tax and that the tax is  
22          delinquent.

23                (c) A statement that the person is obligated to pay the tax, and the amount  
24          of the tax that has been collected and credited to the taxing authority's special  
25          account.

26          F. The collection of all local sales and use taxes collected by the secretary  
27          pursuant to the provisions of this Section shall be subject to the provisions of Title  
28          47 of the Louisiana Revised Statutes of 1950, regarding procedures for assessment,

1 enforcement, collection, and administration of state sales and use taxes, including the  
2 imposition of interest and penalties.

3 G. Notwithstanding any provision of law to the contrary, any taxpayer who  
4 is aggrieved by an assessment of sales and use tax due under the provisions of this  
5 Chapter, or who has a claim for a refund or credit for an overpayment of taxes, may  
6 appeal to the Board of Tax Appeals for a redetermination of the assessment or a  
7 determination of the alleged overpayment. The appeal shall be made in accordance  
8 with the provisions of Chapter 17 of Subtitle II of Title 47 of the Louisiana Revised  
9 Statutes of 1950.

10 \* \* \*

11 §337.22. Sales and use tax returns

12 \* \* \*

13 E. Beginning July 1, 2017, the sales and use tax return for the payment of  
14 sales and use taxes levied by a local taxing authority shall be prescribed by the  
15 secretary.

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 L. Beginning July 1, 2017, the secretary shall be responsible for the  
21 collection of any sales and use tax levied by a local taxing authority in Louisiana.  
22 The tax return and remittance system to be employed by the secretary shall reflect  
23 the requirements of this Section to the greatest degree practicable.

24 \* \* \*

25 §337.25. Authority of collectors to sue

26 ~~Each collector of each taxing authority of this state, who is charged by law~~  
27 ~~with the duty of collecting a tax~~ The secretary of the Department of Revenue, in his  
28 capacity as collector, enforcer, and administrator of all local sales and use taxes,

1 shall be the proper party to bring suits in his official capacity for the collection of  
2 such taxes.

3 \* \* \*

4 §337.64. Alternative remedy for dealers

5 A. Any taxpayer who has received a notice of assessment for sales and use  
6 taxes from ~~any~~ the collector or a local taxing authority and whose remedy is to make  
7 a payment under protest may in lieu thereof comply with the alternative provisions  
8 of this Section, rather than making a payment under protest.

9 \* \* \*

10 §337.80. Interest on refunds or credits

11 A. ~~Each~~ The collector shall compute on all refunds or credits and allow  
12 interest as part of the refund or credit as follows:

13 \* \* \*

14 §337.87. Post-session update procedure

15 A. The purpose of this code is to benefit both taxpayers and local ~~tax~~  
16 ~~collectors~~ taxing authorities by promoting uniformity in the assessment, collection,  
17 administration, and enforcement of state and local sales and use tax and by compiling  
18 them, and making them readily available in one place in the revised statutes.

19 \* \* \*

20 Section 2. R.S. 47:337.13, 337.13.1, and 337.14 are hereby repealed in their entirety.

21 Section 3. This Act shall take effect and become operative on January 1, 2017, if and  
22 when the proposed amendment of Article VII of the Constitution of Louisiana contained in  
23 the Act which originated as House Bill No. \_\_\_\_\_ of this 2016 Regular Session of the  
24 Legislature is adopted at a statewide election and becomes effective.

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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)]

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HB 826 Original

2016 Regular Session

Abramson

**Abstract:** Transfers the responsibility for the collection, enforcement, and administration of local sales and use taxes to the secretary of the Dept. of Revenue beginning July 1, 2017.

Present constitution authorizes local governments and other political subdivisions to levy and collect sales and use taxes. Each parish is required to have a single tax collector or single collection commission for all taxing authorities in the parish.

Present law authorizes the secretary of the Dept. of Revenue ("secretary") to contract with the governing authority of a local taxing authority ("taxing authority"), at the request of the authority, to collect and enforce the collection of its sales and use taxes and related penalty, interest, or other charges.

Proposed law changes present law by requiring that all sales and use taxes levied by any taxing authority in the state shall be collected, administered, and enforced by the secretary, effective July 1, 2017. The secretary required to adopt rules and regulations and to prescribe forms for the collection, enforcement, and administration of all such taxes.

Proposed law requires the single collector in each parish, by Feb. 1, 2017, to provide the secretary copies of all local ordinances affecting sales and use taxes imposed in the parish. Further, a local taxing authority levying a sales and use tax shall notify the secretary within 10 days after approval, and no later than 75 days prior to the effective date of, any action concerning a new tax or the imposition of an existing tax.

Proposed law requires the state treasurer to deposit all local sales and use tax collections into special accounts in the state treasury which shall be established for each taxing authority. Each special account shall be interest bearing, with the interest accruing in favor of the taxing authority. Monies in the accounts shall not be considered to be state monies and shall not be subject to appropriation.

Proposed law requires the secretary to remit sales and use taxes promptly to the appropriate taxing authority. Further, the secretary is authorized to recover expenses associated with the collection of taxes from the appropriate taxing authority in an amount not to exceed 1% of the tax collected.

Proposed law requires the secretary to provide a quarterly report of taxes collected and the cost of collection to each taxing authority. A taxing authority is required to report to the secretary the names of persons it determines who are doing business in the jurisdiction of the taxing authority which are not included in the quarterly report.

Proposed law authorizes a taxing authority to request an additional report of persons doing business in the jurisdiction of the taxing authority who have failed to pay taxes due, which shall include information regarding partial payments, delinquent taxes, and steps taken to collect the tax due, and provides for the information to be included in the secretary's report.

Proposed law provides that the collection, enforcement, and administration by the secretary of sales and use taxes levied by a taxing authority is subject to the same provisions as state sales and use taxes regarding assessment, refunds, overpayments, redetermination of assessments, collection procedures, interest, and penalties.

Present law provides that each collector of each taxing authority of this state, who is charged by law with the duty of collecting a tax, shall be the proper party to bring suits in his official capacity for the collection of taxes.

Proposed law changes present law by providing that the secretary, in his capacity as collector, enforcer, and administrator of all local sales and use taxes, shall be the proper party to bring suits.

Proposed law redefines the designation of "local collector" or "collectors" in various places in the Uniform Local Sales Tax Code to conform to collection, enforcement, and administration by the secretary rather than the various single collectors for each parish.

Present law requires that any sales and use tax levied by taxing authorities located within a single parish may be collected by a single tax collector for that parish and provides for contract collection agreements and joint sales and use tax commissions as mechanisms for collection of local sales and use taxes. Further, a local collector is authorized to employ outside counsel to assist in the collection of taxes, penalties, and interest, and to represent the collector in disputes involving sales and use taxes.

Proposed law repeals present law.

Present law provides that local sales and use taxes shall be collected by a central collection commission in those parishes where a single collector has not been established by July 1, 1992, and provides for the composition and authority of the collection commission.

Proposed law repeals present law.

Effective Jan. 1, 2017, if the proposed amendment of Const. Art. VII, §3(C) contained in the Act which originated as House Bill No. \_\_\_\_ of this 2017 R.S. of the Legislature is adopted at the statewide election to be held on Nov. 8, 2017, and becomes effective.

(Amends R.S. 47:337.2(C)(3), (4)(a)(ii) and (b)(i)(bb)(II), 337.6(A), 337.16, 337.25, 337.64(A), 337.80(A)(intro. para.), and 337.87(A); Adds R.S. 47:337.22(E), 337.23(L); Repeals R.S. 47:337.13, 337.13.1, and 337.14)