

2021 Regular Session

SENATE BILL NO. 177

BY SENATOR MILLIGAN

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

TAX/SALES. Constitutional amendment to create the State and Local Streamlined Sales and Use Tax Commission. (2/3 - CA13s1(A))

A JOINT RESOLUTION

Proposing to add Article VII, Section 3.1 of the Constitution of Louisiana, relative to sales and use tax collection; to create the State and Local Streamlined Sales and Use Tax Commission; to authorize the legislature to provide by law for the streamlined electronic collection of sales and use taxes; to provide for commission membership; to provide for commission duties and responsibilities; to provide for commission officers; to provide for the administration of sales and use taxes; to provide for funding; to provide for submission of the proposed amendment to the electors; to provide for effectiveness; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to add Article VII, Section 3.1 of the Constitution of Louisiana, to read as follows:

§3.1. State and Local Streamlined Sales and Use Tax Commission

Section 3.1.(A) The State and Local Streamlined Sales and Use Tax Commission, hereinafter referred to in this Section as the "commission", is hereby created as a statewide political subdivision. The commission's

1 membership, duties, and obligations shall be determined by law in accordance
2 with the provisions of this Section.

3 (B)(1) The membership of the commission shall be comprised of eight
4 members as follows:

5 (a) One member appointed by the Louisiana School Boards Association
6 or its successor.

7 (b) One member appointed by the Louisiana Municipal Association or
8 its successor.

9 (c) One member appointed by the Police Jury Association of Louisiana
10 or its successor.

11 (d) One member appointed by the Louisiana Sheriffs' Association or its
12 successor.

13 (e) The secretary of the Department of Revenue, or a designee of the
14 secretary.

15 (f) One member appointed by the governor.

16 (g) One member appointed by the speaker of the House of
17 Representatives.

18 (h) One member appointed by the president of the Senate.

19 (2) A member of the commission may appoint a designee to attend
20 commission meetings and vote by proxy on his behalf. The procedure for
21 appointing a designee shall be determined by commission rules.

22 (3) The commission shall have a chairman and vice chairman and any
23 other officers the commission considers necessary. The initial chairman of the
24 commission shall be elected by commission members at the first meeting and
25 shall be a member representing local political subdivisions. The initial vice
26 chairman shall be elected by commission members at the first meeting and shall
27 be a member representing the state. Thereafter, on the anniversary of the initial
28 election of the chairman and vice chairman, the commission shall elect as
29 chairman a member representing the state and shall elect as vice chairman a

1 member representing local political subdivisions. The positions of chairman and
2 vice chairman shall continue to rotate between representation of local political
3 subdivisions and the state in this manner each year.

4 (4) The adoption or amendment of administrative and operational rules
5 of the commission shall require a two-thirds vote of the members of the
6 commission.

7 (C) The commission shall:

8 (1) Provide for the streamlined electronic filing and remittance of sales
9 and use taxes levied by all taxing authorities within the state ensuring prompt
10 remittance of the respective tax returns and monies received electronically by
11 the commission to the single collector for each taxing authority and to the
12 Department of Revenue for distribution. The tax monies received shall, at all
13 times, be and remain the property of the respective taxing authorities of the
14 state.

15 (2) Serve as the administrative entity with respect to the issuance of
16 policy advice and promulgation of rules relative to sales and use taxes levied by
17 all taxing authorities within the state.

18 (3) Serve as the central audit entity for all taxpayers not having a
19 physical presence in Louisiana.

20 (4) Develop rules to streamline the audit process for taxpayers with a
21 physical presence in Louisiana.

22 (D) The commission shall be funded with state and local sales and use tax
23 revenues collected and considered to be reasonable and necessary costs of the
24 administration and collection of sales and use taxes levied by all taxing
25 authorities within the state.

26 (E) Upon the first meeting of the commission, the Louisiana Sales and
27 Use Tax Commission for Remote Sellers and the Louisiana Uniform Local Sales
28 Tax Board shall be abolished and the powers, duties, and authority of these
29 entities shall be transferred to the commission. The respective governing boards

1 **of both entities provided for in this Paragraph shall cease to exist upon the first**
2 **meeting of the commission.**

3 **(F) All statutory provisions enacted relative to the membership, duties,**
4 **or obligations of the commission shall require the enactment of law by a**
5 **two-thirds vote of the elected members of each house of the legislature.**

6 **(G) Absent the enactment of statutory provisions providing for**
7 **streamlined electronic filing and remittance as provided in Subparagraph**
8 **(C)(1) of this Section, sales and use tax collection shall be as provided in Article**
9 **VII, Section 3(B) of this Constitution.**

10 Section 2. Be it further resolved that this proposed amendment shall be submitted to
11 the electors of the state of Louisiana at the statewide election to be held on November 8,
12 2022.

13 Section 3. Be it further resolved that on the official ballot to be used at the election,
14 there shall be printed a proposition, upon which the electors of the state shall be permitted
15 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
16 follows:

17 Do you support an amendment to authorize the legislature to provide for the
18 streamlined collection of sales and use taxes levied within the state by the
19 State and Local Streamlined Sales and Use Tax Commission and to provide
20 for the membership, duties, and responsibilities of the commission?

21 (Adds Article VII, Section 3.1)

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by LG Sullivan.

SB Original DIGEST 2021 Regular Session Milligan

Present constitution authorizes the governing authority of any local governmental subdivision or school board to levy and collect taxes on the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption of tangible personal property and on sales of services as defined by law, if approved by a majority of the electors voting thereon in an election held for that purpose.

Present constitution authorizes a political subdivision to exercise the power of taxation under authority granted by the legislature.

Present constitution requires all political subdivisions that levy sales and use taxes within a parish to agree among themselves to provide for the collection of their taxes by a single collector or a central collection commission.

Proposed constitutional amendment creates the State and Local Streamlined Sales and Use Tax Commission (commission) as a statewide political subdivision.

Proposed constitutional amendment provides for eight commission members:

- (1) One member appointed by the La. School Boards Association.
- (2) One member appointed by the La. Municipal Association.
- (3) One member appointed by the Police Jury Association of La.
- (4) One member appointed by the La. Sheriffs' Association.
- (5) The secretary of the Dept. of Revenue, or the designee of the secretary.
- (6) One member appointed by the governor.
- (7) One member appointed by the speaker of the House of Representatives.
- (8) One member appointed by the president of the Senate.

Proposed constitutional amendment authorizes each commission member to appoint a designee to attend meetings and to vote by proxy on behalf of the member.

Proposed constitutional amendment requires the chair and vice chair to be elected annually. Requires the first chair to be a member representing local political subdivisions and the first vice chair to be a member representing the state. Requires the following chair to be a member representing the state and the vice chair to be a member representing local political subdivisions. Requires the chair and vice chair positions to be rotated annually in this manner.

Proposed constitutional amendment requires a vote of two-thirds of the members of the commission for the adoption or amendment of its administrative and operational rules.

Proposed constitutional amendment requires the commission to provide for streamlined electronic filing and remittance of all sales and use taxes levied in the state. Specifies that monies collected remain the property of the respective taxing authority.

Proposed constitutional amendment requires the commission to serve as the administrative entity to issue policy advice and to promulgate rules relative to sales and use taxes levied by all taxing authorities within the state. Further requires the commission to serve as the central audit entity for all taxpayers without a physical presence in La.

Proposed constitutional amendment requires costs of the commission considered reasonable and necessary to be funded by both state and local sales and use tax revenues

Proposed constitutional amendment abolishes the La. Sales and Use Tax Commission for Remote Sellers and the La. Uniform Local Sales Tax Board and transfers the powers, duties, and authority of these entities to the commission.

Proposed constitutional amendment requires a two-thirds vote of the legislature to enact all statutory provisions relative to membership, duties, or obligations of the commission.

Provides for submission of the proposed constitutional amendment to the voters at the statewide election to be held Nov. 8, 2022.

(Adds Const. Art. VII, §3.1)