

Sales Tax Streamlining and Modernization Commission

Minutes of Meeting
2016 Interim
Tuesday, October 4, 2016

I. CALL TO ORDER

Representative Julie Stokes, chairman of the Sales Tax Streamlining and Modernization Commission, called the meeting to order at 9:52 a.m. in Room 5, in the state capitol in Baton Rouge, Louisiana. The secretary called the roll.

II. ROLL CALL

MEMBERS PRESENT:

Representative Julie Stokes, chairman
Don Allison
Roger Bergeron
Jay Campbell
Tom Cole for Daryl Purpera
Jessica Elliott
Dannie Garrett
Will Green
Paula Jeansonne
Brandon Lagarde
Representative Jim Morris, vice chair
Kevin Richard for Kimberly Robinson
Senator Gary Smith
Dawn Starns
Jeanine Theriot
Senator Rick Ward
Mark West

MEMBERS ABSENT:

Jason DeCuir
Scott Drenkard
Natalie Robottom

STAFF MEMBERS PRESENT:

Elise Read, senior legislative analyst
Tina Vanichchagorn, attorney
Linda Hopkins, secretary

ADDITIONAL ATTENDEES PRESENT:

Joshua Marcelle, senate sergeant at arms
Sheldon Jolliffe, senate sergeant at arms
Danny Leming, house sergeant at arms

III. ORDER OF BUSINESS

Representative Stokes began the meeting with discussion of the adoption of preliminary recommendations of the commission, all of which will be revisited in the formulation of the commission's final recommendations later this year. Ms. Stokes also discussed items on which no specific motion was proposed during the September 20, 2016 meeting, and which are listed on "Sales Tax Exemptions" spreadsheet. (See Exhibit A)

Mr. Carmack Blackmon, general counsel and legislative representative for the Louisiana Railroads Association, P. O. Box 44035, Baton Rouge, LA 70804, (225) 388-9871 discussed Item #143, "Piggyback Trailers or Containers and Rolling Stock"; Item #10, "Leases or Rentals of Railroad Rolling Stock and Leases or Rentals by Railway Companies and Railroad Corporations"; Item #148, "Rail Rolling Stock Sold or Leased in Louisiana"; Item #149, "Sales of Railroad Ties to Railroads for Use in Other States"; and regarding (interstate commerce) freight operating in the parishes, serving all major manufacturers and most ports in the state.

Representative Stokes offered a motion to retain Items #10, #143, #148, and #149 as a single consolidated exemption within R.S. 47:305.50. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. West voted yea. (See Exhibit B)

Representative Stokes moved to Item #148.1, "Parts or Services Used in Fabrication, Modification, Repair of Rail Rolling Stock", and offered a motion to eliminate Item #148.1. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #62, "Repair Services Performed in Louisiana When the Repaired Property is Exported". Ms. Starns offered a motion to retain Item #62 and extend it to local government for interstate competitiveness. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #84, "Advertising Services", to which Senator Gary Smith offered a motion to eliminate the statute. Mr. Garrett offered a substitute motion to repeal R.S. 47:302(D), but to use intent language: "Repeal "D" and any act that includes clarifying the intent; language that the repeal is not intended to tax advertising services nor to not tax tangible personal property for mass producing items." Without objection, the substitute motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Present to speak for information only were Ms. Pamela Mitchell, Louisiana Press Association, 404 Europe Street, Baton Rouge, LA, (225) 344-9309; Mr. Trenton Bland and Mr. Jason Broha, American Advertising Federation of Baton Rouge, P. O. Box 1707, Baton Rouge, LA 70821, (225) 806-5515; Ms. Polly Prince Johnson, 660 Florida, Baton Rouge, LA 70801, (225) 267-4522; and Ms. Emily Toller, attorney, Dept. of Revenue, 617 North Third Street, Baton Rouge, LA 70802, (225) 219-2780.

Representative Stokes moved to Item #81, "Sales of Newspapers" (R.S. 47:301(16)(p)). Ms. Theriot offered a motion to redefine "newspapers", to move into the correct section of law, and to retain the exemption for newspapers under R.S. 47:301(3)(i)(i)(eee). Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #142, "Raw Materials Used in the Printing Process". Mr. Campbell offered a motion to retain as an exemption in full, and applicable at state and local levels, to which Mr. Garrett offered a substitute motion to eliminate it. Mr. Campbell and Mr. Garrett withdrew their motions, and Representative Stokes offered a motion to defer until the next meeting. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #153, "Sales of Original One-of-a-Kind Works of Art Sold in Certain Locations".

Present to speak for information only were Ms. Gaye Hamilton, program manager, and Ms. Kristin Sanders, deputy assistant secretary, Dept. of Culture, Recreation, and Tourism, 1051 North Third Street, Baton Rouge, LA 70802, (225) 342-8180.

Ms. Starns offered a motion to retain the preliminary recommendation as an exemption, to which there was objection. Mr. Garrett offered a substitute motion to extend the exemption sales tax statewide, outside the cultural district. Mr. West objected to the substitute motion. The substitute motion passed by a vote of 9 yeas and 6 nays. Mr. Allison, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Ms. Starns, and Senator Ward voted yea; Mr. Bergeron, Representative Jim Morris, Secretary Robinson, Senator Gary Smith, Ms. Theriot, and Mr. West voted nay. (See Exhibit C)

Representative Stokes adjourned the meeting at 12:11 p.m. and reconvened at 12:52 p.m.

Representative Stokes moved to Item #107, "Fees Paid by Radio and Television Broadcasters for the Rights to Broadcast Film, Video, and Tapes", and Item #167, "Antique Airplanes Held by Private Collectors and Not Used for Commercial Purposes". Representative Stokes offered a motion to eliminate both exemptions. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #17, "Certain Transactions Involving the Construction or Overhaul of U.S. Navy Vessels"; Item #30, "Purchases of Tangible Personal Property for Lease or Rental" (excluding automobiles); Item #116, "Additional Tax Levy on Contracts Entered into Prior to and Within 90 days of Tax Levy"; and Item #76, "Other Constructions Permanently Attached to the Ground". Secretary Robinson stated that the language on Item #116 should be revised with respect to the term "contract" since new levies of sales tax was changed. This item was marked for further action, to define the term "contract". Representative Stokes offered a motion to retain Item #17, Item #30, Item #116, and Item #76. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #22, "Vehicle Rentals for Rerent to Warranty Customers", Item #104, "Trucks, Automobiles, and New Aircraft Removed From Inventory for Use as Demonstrators", and Item #89, "Boats, Vessels, and Other Water Craft as Demonstrators". The preliminary recommendation is to retain, but to include mileage limit and a time before alternate use. Mr. Green asked to examine it further, and to not make any specific parameters. Secretary Robinson requested that the same time limitation apply to dealer plates, loaners, and demonstrators, as well (Title 47, vehicle sales tax). Representative Stokes offered a motion to retain the preliminary recommendation

and to include mileage and time limit before alternate use for Items #22, #104, and #89, which passed without objection by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes next moved to Item #134, "Sales of Motor Vehicles to be Leased or Rented by Qualified Lessors". Representative Stokes offered a motion to retain the exemption for Item #134. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #187, "Use of Vehicles in Louisiana by Military and Armed Forces", and #186, "Credit for Use Tax Paid on Automobiles Imported by Certain Members of the Armed Services".

Present to speak for information was Ms. Peggy Parker, Louisiana Dept. of Revenue, (no address or phone number given). Ms. Parker stated it is a federal law that must be followed, and should be an exclusion; one item is for sales, the other for use.

Representative Stokes offered a motion that the federally-mandated sales tax exemption be retained as an exclusion, but to be consolidated in the statute. Without objection, the motion was adopted by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #90, "Purchases of Off-Road Vehicles by Certain Buyers Domiciled in Another". Mr. Bergeron indicated that it is only fair if we have reciprocity, and offered a motion to retain for interstate competitiveness with reciprocity. Without objection the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #31, "Sales Through Coin-Operated Vending Machines", and stated we should look at a more contemporary vending policy. Ms. Theriot's recommendation would include; "Solely for the purchase of sales and use tax levied by the state and all political subdivisions the term 'sale at retail' shall include the sale of tangible personal property by a dealer through vending machines and/or kiosks; therefore putting the state and locals on the same taxable base." Ms. Theriot offered a motion to eliminate R.S. 47:301(10)(b)(i) and (4)(i) and 6003, but consolidate with and

retain R.S. 47:301(b)(ii), revising to include the state. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea.

Representative Stokes moved to Item #177, "Sales Tax Remitted on Bad Debts From Credit Sales". Ms. Theriot offered a motion to retain the exemption, but to amend R.S. 47:315(B) to include language adding: "#4 Only an amount equal to the tax remitted may be claimed as a credit. Payments received must first be applied to the sales price and tax collected, then payments shall be applied to interest, penalties, or finance charges; and moving the present #4 as #5". Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea. (See Exhibit D)

Representative Stokes moved to Item #56, "Articles Traded in on Tangible Personal Property". Ms. Theriot offered a motion to adopt R.S. 47:301(13)(a) as revised on the sheet, with rule-making through the Dept. of Revenue, in conjunction with local taxes, which Mr. Allison objected. Representative Stokes asked that Item #56 be returned to the calendar. No further action was taken. (See Exhibit E)

Representative Stokes moved to consolidate the three different sales tax holiday dates with qualifying purchases. Ms. Starns provided a handout, and suggested using the last Friday, Saturday, and Sunday in July, with a cap at \$2,000.00. It would also allow the 5% state sales tax exemption, yet locals could opt-in. The exemption would cover qualifying purchases, hurricane preparedness, back-to-school, and all second amendment items. Ms. Starns offered a motion to consolidate all sales tax holidays into one, with a cap of \$2,000 to which Ms. Theriot objected. The motion passed by a vote of 7 yeas and 6 nays. Mr. Allison, Mr. Cole, Ms. Elliott, Mr. Green, Mr. Lagarde, Ms. Starns, and Representative Stokes voted yea; Mr. Bergeron, Ms. Jeansonne, Representative Jim Morris, Senator G. Smith, Ms. Theriot, and Mr. West voted nay. (See Exhibit F)

Present to speak for information only on Item #85, "Purchases by Nonprofit Electric Cooperatives", were Mr. Randy Pierce, chief executive officer, and Mr. Kyle Marionneaux, attorney, Association of La. Electric Cooperatives, 10725 Airline Highway, Baton Rouge, LA 70816, (225) 293-3345.

Representative Jim Morris offered a motion to extend the entire exemption in Item #85 for both state and local tax. Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea. (See Exhibit G)

Representative Jim Morris offered a motion to extend the entire exemption for both state and local tax on Item #3, "Purchases, Services and Rentals for Construction of Sewerage or Waste Water Treatment Facility". Without objection, the motion passed by a vote of 17 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Campbell, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Ms. Jeansonne, Mr. Lagarde, Representative Jim Morris, Mr. Richard, Senator G. Smith, Ms. Starns, Ms. Theriot, Senator Ward, and Mr. Mark West voted yea. (See Exhibit G)

Present to speak for information only on parity with taxation among like-service providers, Item #124, "Cable Television Installation and Repair Services" (also includes the service itself) was Ms. Cheryl McCormick, La. Cable and Television Association, 763 North Street, Baton Rouge, LA 70802, (225) 387-5960. Without a quorum, this item was deferred until the October 18th meeting. (See Exhibit H)

Representative Stokes moved to Item #69, "Work Products of Certain Professionals", and Item #72, "Purchases of Certain Custom Computer Software". Present to speak for information only were Mr. Bill Potter, and Mr. Jim Harris, Louisiana Society of CPAs, 548 Lakeland Drive, Baton Rouge, LA 70810, (225) 922-4600. Without a quorum, this item was deferred until the October 18th meeting.

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at 3:16 p.m.

Respectfully submitted,

Representative Julie Stokes, chairman
Sales Tax Streamlining and Modernization Commission