

Sales Tax Streamlining and Modernization Commission

Minutes of Meeting
2016 Interim Session
Tuesday, October 18, 2016

I. CALL TO ORDER

Representative Julie Stokes, chairman of the Sales Tax Streamlining and Modernization Commission, called the meeting to order at 9:48 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
Mr. Don Allison
Mr. Roger Bergeron
Mr. Tom Cole for Daryl Purpera
Ms. Jessica Elliott
Mr. Dannie Garrett
Mr. Will Green
Mr. Brandon Lagarde
Representative Jim Morris, vice chair
Mr. Jim Patterson
Secretary Kimberly Robinson
Ms. Dawn Starns
Ms. Jeanine Theriot
Senator Rick Ward

MEMBERS ABSENT:

Mr. Jay Campbell
Mr. Scott Drenkard
Ms. Paula Jeansonne
Senator Gary Smith
Mr. Mark West

STAFF MEMBERS PRESENT:

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

ADDITIONAL ATTENDEES PRESENT:

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

III. ORDER OF BUSINESS

Representative Stokes opened by thanking the members for attending the meeting.

Representative Stokes asked that members note the first five medical exemptions that she had grouped on Page 1 of the "Sales Tax Exemptions and Exclusions - October 18, 2016", Exhibit A, which is included in the committee records. Ms. Stokes offered a motion to retain the exemptions for Item #180, "Purchases and Leases of Durable Medical Equipment Paid by or Under Provisions of Medicare"; Item #74, "Materials Used Directly in the Collection of Blood"; Item #75, "Aphaeresis Kits and Leuko Reduction Filters", Item #34, "Sales of Human-Tissue Transplants"; and Item #144, "Pharmaceutical Samples Distributed in Louisiana". Without objection, the motion passed by a vote of 14 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Next, Ms. Stokes reviewed Item #159, "Purchase, Lease or Repair of Certain Capital Equipment and Computer Software of Qualifying Radiation Therapy Treatment Centers", Item #162, "Purchase of Breast-Feeding Items", Item #192.1, "Sales of Insulin", and Item #19, "Purchases and Leases by Free Hospitals". Representative Stokes offered a motion to eliminate Items #159, #162, #192.1, and #19. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes moved to Item #192.2, "Orthotic Devices, Including Prescription Eyeglasses and Contact Lenses, Wheelchairs and Lifts, and Prosthetic Devices as Prescribed by a Physician, Optometrist, or Licensed Chiropractor for Personal Use", Item #192.3, "Sales of Ostomy, Colostomy, and Ileostomy Devices and Equipment", Item #192.4, "Sales of Patient Aides Prescribed by a Physician or Chiropractor", Item #192.5, "Sales of Medical Devices Used Exclusively by the Patient in the Medical Treatment of Various Diseases or Administered Exclusively to the Patient by a

Physician, Nurse, or Other Health Care Provider or Facility, in the Treatment of Diseases Under the Supervision of and Prescribed by a Physician", Item #192.6, "Sales of Orthotic Devices, Prosthetic Devices, Prostheses and Restorative Materials Utilized by or Prescribed by a Dentist", and Item #192.7, "Purchase or Rental of Kidney Dialysis Machines, Parts, Materials, and Supplies for Home, use Under a Physician's Prescription". Ms. Stokes mentioned those six items' position as to whether they are constitutional or statutory; the difficult part is figuring out the base difference with Louisiana conforming throughout the parishes.

Present to speak for information only were Ms. Jennifer McMahon, vice president, La. Hospital Association and executive director of the Metropolitan Hospital Council of New Orleans, 9521 Brookline Avenue, Baton Rouge, LA 70809; Mr. Jay Adams, attorney, Energy Practice, representing La. Hospital Association, 201 St. Charles Avenue, New Orleans, LA 70170, (504) 582-8364; Ms. Jennifer Marusak, vice president, governmental affairs, La. State Medical Society, 6767 Perkins Road, Suite 100, Baton Rouge, LA 70810, (225) 572-1916; and Mr. Ward Blackwell, executive director, La. Dental Association, 7833 Office Park, Baton Rouge, LA 70809, (225) 926-1986.

Mr. Bergeron offered a motion to defer Items #192.2, #192.3, #192.4, #192.5, #192.6, and #192.7, to which Mr. Patterson objected. Mr. Patterson offered a substitute motion to retain Items #192.2, #192.3, #192.4, #192.5, #192.6, and #192.7 as a full exemption at the state level, but satisfactory with the locals; with the understanding it will be streamlined at a later date. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes invited the four guests to return at a later date, to provide additional information that would help the members in their decision-making process.

Representative Stokes moved to Item #56, "Articles Traded in on Tangible Personal Property". Mr. Green offered a motion to retain the exemption to which Ms. Theriot objected. Mr. Garrett offered a substitute motion to retain the exemption for Item #56, trade-in to be contemporaneous with the sale in situs and time as part of the same transaction, to which Mr. Green objected. By a vote of 8 yeas and 7 nays the substitute motion passed. Representative Stokes, Mr. Bergeron, Mr. Cole, Mr. Garrett, Mr. Richard for Secretary Robinson, Ms. Robottom, Ms. Theriot, and Senator Ward voted yea; Mr. Allison, Ms. Elliott, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, and Ms. Starns voted nay.

Representative Stokes next reviewed Item #109, "Sales of 50-Ton Vessels and New Component Parts and Sales of Certain Materials and Services to Vessels Operating in Interstate Commerce" which was discussed during the last meeting; a quorum was not reached and the commission was unable to vote. Ms. Theriot began the discussion by defining "interstate commerce". The commission continued their discussion concerning purchasing items in certain ports in another state or another country, and the exemption thereof.

Present to speak was Mr. Alex Pucleu, La. Association of Waterways and Shipyards, (No address given), (225) 505-1521.

Ms. Stokes offered a motion to defer Item #109 to a later date. Without objection, the motion passed by a vote of 15 yeas to 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Mr. Richard, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes next reviewed three items: Item #29, "Purchases by Nonprofit Entities that Sell Donated Goods", Item #181, "Sales Tax Collected by a Qualified Charitable Institution", and Item #39, "Tangible Personal Property Sold to Food Banks".

Representative Stokes offered a motion to exempt Items #29, #181, and #39 when donated to organizations and those items are given away to individuals, to which Secretary Robinson objected. Secretary Robinson offered a substitute motion to defer Items #29, #181, and #39, and to further discuss language and the impact of the exemption at the next meeting. Without objection, the substitute motion passed by a vote of 15 yeas to 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Mr. Richard, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes next reviewed Item #67, "Gold, Silver, or Numismatic Coins or Platinum, Gold, or Silver Bullion". The preliminary recommendation was to retain the full exemption. Ms. Read stipulated the exclusion would be similar to those of stocks and bonds, whereby the value of the coins would be treated as a collectable, and those numismatic coins would be taxable. Representative Stokes offered a motion to retain the full exemption for Item #67. Without objection, the motion passed by a vote of 15 yeas to 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Mr. Richard for Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes next reviewed to Item #114, "Rentals of Motion Picture Film to Commercial Theaters", which may now be obsolete; She stated the preliminary recommendation would be to eliminate. Ms. Stokes offered a motion to eliminate Item #114. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Mr. Richard, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes next reviewed Item #41, "Certain Aircraft Assembled in Louisiana with a Maximum Capacity of 8 people (previously 50 or more)", and Item #18, "Rental or Purchase of Airplanes or Airplane Equipment and Parts by Louisiana Domiciled Commuter Airlines". Representative Stokes offered a motion to retain Items #41 and #18 for interstate competitiveness. Without objection, the motion passed by a vote of 15 yeas to 0 nays. Representative Stokes, Mr.

Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Mr. Richard for Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #43, "Purchases of Equipment by Bona Fide Volunteer and Public Fire Department". Ms. Stokes offered a motion to eliminate Item #43. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #58, "Specialty Mardi Gras Items Sold by Certain Organizations", and Item #138, "Specialty Mardi Gras Items Purchased or Sold by Certain Organizations". Mr. Garrett addressed questions and suggested answers. Mr. Garrett offered a motion to repeal both Items #58 and #138. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #4, "Isolated or Occasional Sales of Tangible Personal Property". Secretary Robinson offered isolated or occasional cases of exemptions, and examples of discussions during the Second Extraordinary Session with regard to Senate Bill No. 9 and Act No. 12. She also noted banks and lenders had concerns, and it would be in the state's best interest to pull that language before making a decision on Item #4. Secretary Robinson offered a motion to defer Item #4. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #127, "Lease or Rental of Certain Vessels in Offshore Mineral Production", which was taxed in both Act No. 25 and Act No. 26, and an exemption at both levels. After much discussion, Mr. Garrett offered a motion to retain Item #127 in full, with wording changed to "*tax shall not apply to the lease of those vessels for use offshore*" for the lease of vessels. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes moved to Item #40, "Pollution Control Devices and Systems", being taxed in Act No. 25 and Act No. 26. Ms. Stokes offered a motion to eliminate the exclusion, while Mr. Allison objected and requested discussion on this item. Mr. Patterson offered a substitute motion to retain as an exclusion. Ms. Stokes withdrew her motion; Mr. Patterson withdrew his substitute

motion. Mr. Garrett offered a motion to retain Item #40 as a state refund, to which Secretary Robinson objected. Secretary Robinson offered a substitute motion to repeal Item #40, but retain as a refund for the state, and to add language to tie the purchase of the equipment to a governmental mandate, whether federal, state, or local. Without objection, the substitute motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #76, "Other Constructions Permanently Attached to the Ground". The preliminary recommendation was to retain this exemption. Ms. Stokes offered a motion to retain, to which Ms. Theriot offered a substitute motion to retain as an exemption, not an exclusion. Ms. Stokes requested that Item #76 be returned to the calendar. Ms. Theriot withdrew her motion.

Representative Stokes returned to Item #16, "Rentals or Leases of Certain Oil-Field Property to be Released or Rented". Representative Stokes offered a motion to retain Item #16, clarify that it only applies if the sales tax is charged on the subsequent payments, and put it in the "sale for resale" statute. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #55, "Qualifying Events Providing Louisiana Heritage, Culture, Crafts, Art, Food and Music Sponsored by a Domestic Nonprofit Organization", to tax in conformity to the statutes for Items #87 and #88. Representative Stokes offered a motion to retain Item #55. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #88, "Sales at Certain Publicly-Owned Facilities" and Item #87, "Sales at State-Owned Domed Stadiums".

Present to speak for information was Ms. Suchitra J. Satpathi, executive counsel, director, State and International Affairs for the City of New Orleans, 1300 Perdido Street, Suite 2E04, New Orleans, LA 70112, (504) 658-4928.

Mr. Garrett offered a motion to defer Items #87 and #88. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #66, "Miscellaneous Telecommunication Services". Representative Stokes offered a motion to defer Item #66. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed Item #45, "Sales of Cellular Telephones and Electronic Accessories", which relates to Item #66. Representative Stokes offered a motion to defer Item #45. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

Representative Stokes reviewed the taxable services, and offered a motion to defer Items #124, #68, #69, #5, and #72. Without objection, the motion passed by a vote of 15 yeas and 0 nays. Representative Stokes, Mr. Allison, Mr. Bergeron, Mr. Cole, Ms. Elliott, Mr. Garrett, Mr. Green, Mr. Lagarde, Representative Jim Morris, Mr. Patterson, Secretary Robinson, Ms. Robottom, Ms. Starns, Ms. Theriot, and Senator Ward voted yea.

The meeting was adjourned at 2:20 p.m.

Respectfully submitted,

Chairman Julie Stokes
Sales Tax Streamlining and Modernization Commission