



Louisiana Uniform Local Sales Tax Board

**Minutes of the Regular Meeting
Thursday, September 26, 2024 ~ 4:00 PM
Chateau Saint Denis Hotel
751 Second Street, Natchitoches, LA 71457**

This meeting will be available via Zoom. Members of the public are encouraged to provide comments to the Zoom chat function. See link below:

<https://us06web.zoom.us/j/82645273670?pwd=cvL4RU18HYCz17FPiyEMul49AP9rnw.1>

Meeting ID: 826 4527 3670 Passcode: 000032

MEMBERS & PROXIES PRESENT (P) / ABSENT (A):

Members:

Dr. Janet Pope, LA School Board Executive Director	<u>A</u>
Mike Ranatza, LA Sheriff's Association Executive Director	<u>A</u>
Barney Arceneaux, LA Municipal Association Executive Director	<u>A</u>
Guy Cormier, Police Jury Association of Louisiana Executive Director	<u>A</u>
Amanda Granier, LA School Board Association Appointee – Vice Chairman	<u>P</u>
Shawn McManus, LA Sheriff's Association Appointee	<u>ZOOM</u>
Kressy Krennerich, LA Municipal Association Appointee - Chairman	<u>P</u>
Jeffery LaGrange, Police Jury Association of Louisiana Appointee	<u>A</u>

Proxies:

Neshelle S. Nogess, LA School Board Association, Secretary	<u>ZOOM</u>
Jessica Knight, LA Sheriff's Association	<u>A</u>
Romy Samuel, LA Municipal Association	<u>A</u>
David Hall, Police Jury Association of Louisiana	<u>P</u>

STAFF PRESENT:

Clarence Lymon, CPA, Executive Director	<u>P</u>
Dewanna Trask, Sales Tax Analyst	<u>P</u>
Alice Metcalfe, Project Manager	<u>P</u>

OTHERS PRESENT:

Andrew Kolb, LULSTB Executive Counsel
Renee Roberie, Remote Sellers Commission Executive Director
Darlene Allen, LATA Executive Director
Mark Blevins, Tax Compliance & Recovery, LLC
Jeanine Theriot, Audit & Compliance Manager, Remote Sellers Commission
Administrators participating in person & via the Zoom Web Conferencing platform.

Each member of the Board received the following documents prior to the meeting:

1. Meeting Agenda
2. Meeting Minutes of August 22, 2024
3. Financial Statements - August 2024

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4. Y-T-D Budget Comparison - August 2024
5. Bill Payments Report - August 2024
6. Electronic Meetings Rule

1. Roll Call

Chairman Krennerich called the meeting to order at 4:10 p.m. The secretary called the roll, and a quorum (5 members / proxies or more) was established. Rule 393 has been promulgated which allows members and proxies to attend and participate via electronic means and mandates that they be counted for the purposes of establishing a quorum and voting.

2. Adoption of the Agenda

ON MOTION OF David Hall, SECONDED BY Amanda Granier, AND CARRIED, the Board voted to adopt the agenda of the September 26, 2024, meeting of the LA Uniform Local Sales Tax Board.

3. Approval of the Minutes of the LA Uniform Local Sales Tax Board Held August 22, 2024

Shawn McManus had a correction to the minutes: on page 5, UELRRAC Vendor Recommendation Discussion item, noted that Jeffery LeGrange recalled the Q & A by Avenue; however, Shawn McManus said that he made that note instead of Jeffery LeGrange. Shawn McManus and Jeffery LeGrange spoke and confirmed the accuracy of the statement.

ON MOTION OF Shawn McManus, SECONDED BY David Hall, AND CARRIED, the Board voted to approve the minutes of the meeting of the LA Uniform Local Sales Tax Board held August 22, 2024, as amended.

4. Remote Seller Commission Update

Renee Roberie, Executive Director of the Louisiana Remote Sellers Commission, provided an update on monthly collections for the month of August 2024, which was for the July 24, 2024, period of \$55.2 M, and distributed \$29.2 M to the locals for September 2024. Executive Director Roberie stated that the Remote Sellers Commission processed 11K returns for 10.5K registered accounts. The increase of 30% is the result of Assessment Notices and Notices of Intent sent out to taxpayers resulting in a larger number of processed returns.

Executive Director Roberie also shared that their financial report has been completed for FY 23-24, and they will return the unused portion of the 1% (\$4.8M will be sent to locals and the state) at the end of October. Last year the RSC distributed about \$4.3M.

Shawn McManus said that it appears the letters are working and commended Executive Director Roberie.

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ON THE MOTION of Shawn McManus, SECONDED BY Amanda Granier, AND CARRIED, the Board voted to move Item #6 on the agenda to Item #5 to facilitate a quorum vote.

5. Financial Reports

- **Financial Statements: August 2024**

Two months in the FY, no concerns with overages or budget projections.

- **Y-T-D Budget Review: August 2024**

The Y-T-D comparison through August shows \$89K in expenditure. There are no concerns for overages in any accounts at this point in the fiscal year.

- **Bills Paid Review/Approval**

The usual and customary bills have been paid. We have paid approximately \$24K in expenses for the month of August, which includes our lease payments, retirement contributions, web hosting, IT consulting, legal services, electronic bill payments, etc. There has been nothing unusual to report.

We will be making another transfer to the LAMP account shortly, leaving enough in our account to cover our budget for the current FY.

Amanda Granier asked if the board has agreements with all parishes at this point, and Executive Director Lymon said yes, we have 100% participation. Amanda Granier then followed up with a recommendation that we look at the account balances for cash and close the older account, moving that money to the LAMP account and keeping only the LAMP account and main account open since there is such a small balance in the cash account and considering that all the parishes are contracted.

Executive Director Lymon said that he agreed, however, there were still payments being made from that account. The largest amount coming out of that account was about \$84K annually but will no longer be the case. Only monthly website hosting and maintenance and IT items are currently being paid from that account. The bank has already been contacted to transfer those payments and close the account. Which should have the account closing by the end of next month if not sooner.

Shawn McManus commented that on pages 5 and 7 at the top on the Financials, in the column for Budget, he was not sure that the figures were reading correctly. For example, on Page 5 we discuss the August budget, and the figure for the August budget should not be \$501k; on page 7 we are given a July and August figure together of \$1M which does not seem correct for budgeted revenue.

Executive Director Lymon agreed that our Accountant had that information incorrect. He said that the approved budget has not been integrated into this document as intended and that he will take care of that issue with our Accountant. The actual expenditure information, however, is correct.

ON MOTION OF Shawn McManus, SECONDED BY Amanda Granier, AND CARRIED, the Board voted to accept the financial reports and approve the bill payments for the month ending August 2024, with the stipulation that the budgeted amounts be revised for September's statements.

6. Executive Director's Report

- **Act No. 375 (2023 Regular Session) Update – Single Filing and Remittance System**
 - **Lookup Tool Hold Harmless Provision – Update**

The Hold harmless provision is in effect and all credentialed users should have to accept the provision to use the system. Non-credentialed users have a blurb that states that they have no hold harmless protection. Revisions may be forthcoming for the non-credentialed user's login page of the website.

- **Uniform Return and Remittance Project – Update**

At the last meeting, the board approved the recommendation for the vendor of choice from the UELRRAC committee. We have moved forward with meetings with the vendor, Avenu Analytics. The board is currently in the process of developing and finalizing a statement of work and system requirements. Our next meeting with the vendor will be on Tuesday at 2:00 PM. Invites will be sent out.

We are also in the process of contract negotiations for functionality and working with OTS to accomplish that and to make sure the scope of services is adequate and complete.

Chairperson Kressy Krennerich clarified that the contact with Avenu on Tuesday will not be a meeting, a board meeting, or a ULERRAC meeting, nor open to the public; it will be a conference call where contract provisions will be discussed.

Shawn McManus asked if the contract provisions discussion will be held via Zoom. Executive Director Lymon answered yes.

Neshelle Nogess left the meeting at 4:30.

- **Act No. 393 (2023 Regular Session) Update – Electronic Meetings Requirement**
 - **Final Rule Published in September 2024 *Louisiana Register***

Executive Director Lymon explained that the Final Rule was published on September 20th which allows the board to hold 1/3 of the meetings virtually. The rule mandates that the Chair or her designee must be onsite, but the board members may virtually attend up to 1/3 of the total calendar meetings.

Amanda Granier asked if the entire meeting had to be virtual or if one member could attend virtually. Executive Director Lymon stated that we hold our meetings virtually.

so virtual participation is always an option. Act 393 mandates that boards make provisions for people with disabilities, and as part of that Act, the board is allowed to hold a percentage of its meetings electronically. Because the rule was published on the 20th and this meeting was postponed until the 26th, we are allowed to have virtual participation by board members.

Shawn McManus asked if this meeting counts as our first virtual meeting. Executive Director Lymon answered yes because we have two members participating virtually. Mr. McManus then asked if the meetings are counted by fiscal year or calendar year. Executive Director Lymon said by calendar year according to the Act 393.

- **Tax Advisory Proposals Pursuant to PPM No. 50.3**

- **Taxability of Magazines, Newspapers, and Periodicals – Update**

- **Groceries/Meals Delivery Services – Update**

Both items are still in the development stage in terms of a draft advisory notice from the LDR. We appreciate how busy Revenue is with the current tax reform proposals.

- **TaxWatch API Modification Proposal – Update**

There has been no update with modification proposals from OTS, however, we are moving forward with the agreement that we currently have in place with Watch. The lookup tool functionality is currently undergoing the approval process for the current functionality.

The board has requested additional functionality in order to deliver a tax rate based on the date of a transaction. Watch has assured us that they will be able to do this, however we initially requested back to January 1, 2024. The board has requested functionality back to January 1, 2021. We have not received a price quote for back to January 1, 2021, but will keep the board abreast of changes. Executive Director Lymon continued to state that we are mandated to have functionality back to January 1, 2024, forward because that is when the responsibility kicks in for the board regarding the hold harmless.

Executive Counsel Andrew Kolb discussed the ability to contract with Watch outside of the agreement we are currently piggybacking with OMV and OTS. Executive Counsel Kolb explained that the board has a sublicense with OMV for using the lookup tool. The question posed to OTS is whether they consider our proposed enhancements as part of the same product or not so that we may use the enhancement through the state contract. We have not received feedback from OTS regarding that answer.

Executive Counsel Kolb said that the other avenue is to consider the software purchase a purchase of equipment and supplies under public bid law. Purchases under \$30K of materials and supplies are not subject to public bids. The current proposal from TaxWatch is less than \$30K a year for the enhancement, so pending the quote for the additional date range, the board may be able to contract under a separate agreement for that enhancement.

Using this route, it would not matter if OTS would consider the proposed enhancement as part of the same contract or not because we would have a separate contract for the enhancement.

Amanda Granier clarified that the current quote from Watch is with functionality going back to January 2024, and if that is under \$30K. Executive Director Lymon said yes, the current contract is for about \$20K with a slight escalation. Amanda Granier asked if OMV may be interested in the same new functionality which could then be added to the existing contract. Executive Director Lymon said that he had an off-the-record conversation with OMV but did not get positive feedback. OMV said that they are more concerned with current rates and not past rates and did not express a desire to pay for that function.

Executive Counsel Kolb said that if the cost is between \$30K and \$60K, there would need to be an attempt to get 3 quotes for the enhancement. He then stated that TaxWatch's quote may not exceed the \$30K threshold.

After some discussion, Executive Director Lymon said that he believes that although OTS has not required the board to procure a separate contract, he feels that a separate contract is OTS's preference. Amanda Granier asked if the board must procure a separate contract, would that necessitate a special procurement or the need to go back out to bid. Executive Counsel Kolb said that it may potentially, however, Act 375 mandates that the procurement is through OTS. The best scenario is an answer from OTS, but we can do the enhancement contract to the lookup tool contract to get through January 2025 to stay in compliance with Act 375 and then survey the landscape for functionality before 2025.

Executive Director Lymon added that if the proposal for the enhancements is under the \$30K threshold then we could get the costs for functionality from 2021 forward. Amanda Granier recommended that we get the costs for 2021, 2022, and 2023 separately so that the board can determine what it can afford. Executive Director Lymon said that we will add that to the request.

- **Project Manager Position – Update**

Alice Metcalfe was hired as project manager, as discussed in a previous meeting. She was introduced to the Board and Administrators attending the meeting in person and by Zoom. She is available and works with Board staff and local administrators.

Shawn McManus said that he wanted to backtrack on an issue that he recently ran into regarding the Lookup Tool's hold harmless provision. Shawn McManus said that in dealing with a VDA, the jurisdictions that the taxpayer is attempting to report to are incorrect. He said that his office suggested that they use the Board's look-up tool. He said that his office offered to receive the data and do it for the taxpayer, but because it is medically related the taxpayer refused to provide the data. Also, the taxpayer did not want to use the lookup tool themselves because with the hold harmless provision in place, there would be some record of the lookup maintained. Shawn McManus said that there needs to be something put into place to comply with federal regulations (HIPPA) so that they can report correctly. Shawn McManus said that the way the taxpayer is attempting to assign a tax rate is terribly

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inaccurate and he cannot accept the money for the VDA. Executive Director Lymon said that he has discussed it with the Collector's employee, and it is inconceivable that the federal regulation does not allow for the dissemination of limited information like a delivery address for the proper administration and collection of taxes. He continued by saying La. R.S. 47:1508 provides penalties for the improper disclosure of information by the taxing authority and expressed concern for the taxing authority not insisting that those records be turned over so that the accuracy of reporting can be determined.

Chairperson Krennerich expressed additional concern by saying that the taxing authority is not asking for the name of the patient, the treatment condition, the name of the drug, etc, just the amount and address.

Executive Counsel Kolb said that under HIPPA a patient's address is considered protected health information. He continued by saying that there are workarounds: an administrative subpoena in connection with the VDA, they go to court and request a protective order, and by virtue of the judgment, say they were ordered to provide the information which is an exception to HIPPA.

As far as using the lookup tool there could be an agreement that the Collector would not use their information sharing agreement with the Board to get the data that is collected under a lookup.

Shawn McManus said that his only concern is to get the collection rates and jurisdictions correct.

Executive Director Lymon asked if HIPPA supersedes the obligations of the Collectors to ascertain correct return information. Executive Counsel Kolb said the Supremacy Clause would come into play in this scenario. He continued to say that there are two different sets of laws and that there are ways to accomplish things, and HIPPA was not designed to run afoul of sales tax laws.

Executive Director Lymon said that we could put out a document that says that we would not get that information unless the taxpayer claimed hold harmless. Executive Counsel Kolb said that another workaround is to employ a CPA or attorney (taxpayer representative) to get the information anonymously.

Amanda Granier said that for her, she would currently only have 7 months of historical data, and, like Shawn, would still need the addresses to ascertain the accurate rates.

Shawn McManus stated that it should be incumbent upon the taxpayer that when the Collector has informed them that they are "doing it incorrectly" the taxpayer should not be able to claim that they did the best they could.

Executive Director Lymon stated that he has spoken with the staff member and that we would be happy to find solutions.

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Neshelle Nogess returned at 5:00 PM.

7. Other Business

Chairperson Krennerich stated that they have already gone through the UELRREC update.

Executive Director Lymon read the communication from the Legislative Ways and Means Committee meeting to be held on Tuesday, October 8, 2024, at 10:00 AM, and invited the Collectors to listen to or attend regarding the state tax and fiscal policy reform discussion.

The next board meeting is scheduled for October 10, 2024.

Public Comment

None

Adjournment

ON MOTION OF David Hall, SECONDED BY Amanda Granier, AND CARRIED, the Board voted to adjourn at 5:05 PM.