

2022 Regular Session

SENATE BILL NO. 475

BY SENATOR BARROW

SPECIAL DISTRICTS. Creates the Baker Main Street Economic Development District as a special taxing district. (8/1/22)

AN ACT

To enact R.S. 33:9038.74, relative to cooperative and economic development in East Baton Rouge Parish; to create the Baker Main Street Economic Development District as a special taxing and tax increment financing district in East Baton Rouge Parish; to provide for the boundaries of the district; to provide for the governance of the district; to provide for the authority, powers, duties, and functions of the governing body; to provide for the levy and collection of taxes within the district; to authorize the district to issue and sell bonds; to authorize the district to engage in tax increment financing; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:9038.74 is hereby enacted to read as follows:

§9038.74. Baker Main Street Economic Development District

A. Creation. There is hereby created in the city of Baker, parish of East Baton Rouge, hereinafter referred to as "Baker", the Baker Main Street Economic Development District a special taxing district, body politic and corporate of the state, referred to in this Section as the "district". The district shall be a political subdivision of the state and the district is hereby granted all

1 of the rights, powers, privileges, and immunities accorded by law and the
2 Constitution of Louisiana to political subdivisions of the state, subject to the
3 limitations provided in this Section.

4 B. Boundaries. The boundaries of the district shall be coterminous with
5 the boundaries of the city of Baker's downtown area.

6 C. Purpose. The state hereby acknowledges that the redevelopment of
7 the property within the district is an important element of the continued
8 revitalization and economic development of the city-parish. The district is
9 created to provide for cooperative economic development among the district,
10 Baker, the state, and the owners of property in the district, in order to assist in
11 the redevelopment of, and dramatic improvement to, the property within the
12 boundaries of the district and for the purpose of promoting trade, commerce,
13 industry, and employment opportunities in the City of Baker's Central Business
14 District.

15 D. Governance. (1) In order to provide for the orderly development of
16 the district and effectuation of the purposes of the district, the district shall be
17 administered and governed by a board of commissioners, referred to in this
18 Section as the "board", comprised of seven persons as follows:

19 (a) The mayor of the city of Baker, or his designee.

20 (b) The mayor of the city of Baker shall appoint one member, from a list
21 of nominees submitted by the Baker City Council.

22 (c) The Baker City Council shall appoint one member who is elected to
23 the city council.

24 (d) The member of the Louisiana Senate whose district encompasses all
25 or the greater portion of the area of the district shall appoint one member.

26 (e) The member of the Louisiana House of Representatives whose district
27 encompasses all or the greater portion of the area of the district shall appoint
28 one member.

29 (f) The board of directors of the Baker Chamber of Commerce shall

1 appoint one member who is serving or has served as president of the chamber's
2 board.

3 (g) The Baker City School Board shall appoint one member from a list
4 of nominees submitted to the school board.

5 (2) All members of the board shall own property or have a principal
6 place of business or profession within the city of Baker.

7 (3)(a) The commissioners appointed shall serve for three years. At the
8 expiration of the term of office, the successors shall be appointed in the same
9 manner as the predecessor appointees were selected.

10 (b) A vacancy that occurs prior to the expiration of a term shall be filled
11 for the remainder of the unexpired term in the same manner as the predecessor
12 appointee was selected.

13 (4) All the members of the board shall constitute a quorum for the
14 transaction of business. The board shall keep minutes of all meetings and shall
15 make them available for inspection through the board's secretary. The minute
16 books and archives of the district shall be maintained by the board's secretary.
17 The monies, funds, and accounts of the district shall be in the official custody
18 and control of the board of commissioners. The board's treasurer shall maintain
19 adequate accounting records and assure all monies are deposited, expended,
20 and accounted for in accordance with the bylaws.

21 (5) The board shall adopt bylaws and prescribe rules to govern its
22 meetings. The members of the board shall serve without salary or per diem and
23 shall be entitled to reimbursement for reasonable, actual, and necessary
24 expenses incurred in the performance of their duties.

25 (6) The domicile of the board shall be established by the board at a
26 location within the district.

27 (7) The board shall elect from its own members president, vice president,
28 secretary, treasurer, and parliamentarian, whose duties shall be common to
29 such offices or as may be provided by bylaws adopted by the district. The board

1 shall hold regular meetings and may hold special meetings as provided in the
2 bylaws. The failure of the board to hold any regular meeting shall not impair
3 any existing obligations of the district. All such meetings shall be public
4 meetings subject to the provisions of R.S. 42:11 et seq.

5 (8) The district shall be subject to the Public Records Law, official
6 journals law, Code of Governmental Ethics, and audit law pursuant to R.S.
7 24:513.

8 E. Rights and powers. The district, acting by and through its board, shall
9 be a special taxing district and shall have and exercise all powers of a political
10 subdivision and special taxing district necessary or convenient for the carrying
11 out of its objects and purposes including but not limited to the following:

12 (1) To sue and to be sued.

13 (2) To adopt bylaws and rules and regulations.

14 (3) To receive by gift, grant, donation, or otherwise any sum of money,
15 property, aid, or assistance from the United States, the state of Louisiana, or
16 any political subdivision thereof, or any person, firm, or corporation.

17 (4) For the public purposes of the district, to enter into one or more
18 contracts, agreements, or cooperative endeavors with the state and its political
19 subdivisions or political corporations, Baker, the owners of property in the
20 district, and with any public or private association, corporation, business entity,
21 or person, including but not limited to a cooperative endeavor agreement, a
22 pledge and collateral assignment agreements, and tax collection agreement.

23 (5) To appoint officers, agents, and employees, prescribe their duties, and
24 fix their compensation.

25 (6) To acquire by gift, grant, purchase, or lease such property within the
26 district as may be necessary or desirable to carry out the objectives and
27 purposes of the district and to mortgage and sell such property.

28 (7) In its own name and on its own behalf to incur debt and to issue
29 bonds, notes, certificates, and other evidences of indebtedness, and in the event

1 the district elects to issue bonds pursuant to the authority under this Section,
2 then the district shall be deemed and considered to be an issuer for purposes of
3 R.S. 33:9037, and shall, to the extent not in conflict with this Section, be subject
4 to the provisions of R.S. 33:9037.

5 (8) To establish such funds or accounts as are necessary to conduct the
6 affairs of the district.

7 (9) To levy and collect the taxes authorized pursuant to this Section.

8 (10) To pledge the district tax collections and other funds and property
9 as security for the financing or refinancing of any costs incurred or to be
10 incurred in connection with any project or projects, or parts thereof, within the
11 boundaries of the district.

12 (11) To enter into one or more agreements to provide for the collection
13 of the taxes levied within the district and remittance of the taxes to the
14 appropriate recipients.

15 (12) To exercise any and all of the powers granted to an economic
16 development district as if the district were an economic development district
17 established pursuant to Part II of Chapter 27 of Title 33 of the Louisiana
18 Revised Statutes of 1950, including but not limited to the powers of tax
19 increment financing pursuant to R.S. 33:9038.33 and 33:9038.34 and the power
20 to levy taxes within the district pursuant to R.S. 33:9038.39, provided that any
21 such powers exercised by the district shall be subject to the provisions of Part
22 II of Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950, unless
23 such provisions are inconsistent with the provisions of this Section, in which
24 case the provisions of this Section shall control.

25 (13) To levy sales taxes, or hotel occupancy taxes within the district or
26 any combination of such taxes, above and in addition to any other sales taxes,
27 or hotel occupancy taxes, or combination of such taxes, then in existence or
28 permitted to be in existence within the district, in an amount as may be
29 determined by the board with the approved written consent of the owners of

1 immovable property in the district, all in addition to the powers authorized
2 pursuant to Paragraph (12) of this Subsection and pursuant to R.S. 33:9038.39,
3 subject to the limitations and prohibitions of the Louisiana Constitution.

4 F. Levy of taxes. (1) In order to provide funds for the purposes of the
5 district, the district, acting by and through its board, is hereby authorized to
6 levy and collect within the district:

7 (a) A tax upon the occupancy of hotel rooms, motel rooms, and overnight
8 camping facilities.

9 (b) A tax on the sale at retail, the lease or rental, the consumption and
10 storage for use or consumption of tangible personal property and on sales of
11 services, all as defined in R.S. 47:301 et seq., or any other appropriate provision
12 or provisions of law, as amended.

13 (2) The aggregate tax rate upon the occupancy of hotel rooms, motel
14 rooms, and overnight camping facilities within the district authorized pursuant
15 to Subparagraph (1)(a) of this Subsection shall be at least equal to the aggregate
16 rate of all taxes upon the occupancy of hotel rooms, motel rooms, and overnight
17 camping facilities levied and collected within the city-parish.

18 (3) The aggregate sales tax rate within the district authorized pursuant
19 to Subparagraph (1)(b) of this Subsection shall be at least equal to the aggregate
20 rate of all such sales taxes levied and collected within the city-parish.

21 (4)(a) The word "hotel" as used in this Section shall mean and include
22 any establishment, both public and private, engaged in the business of
23 furnishing or providing rooms and overnight camping facilities intended or
24 designed for dwelling, lodging, or sleeping purposes to transient guests where
25 such establishment consists of two or more guest rooms.

26 (b) The occupancy tax shall be paid by the person who exercises or is
27 entitled to occupancy of the hotel room, and shall be paid at the time the rent
28 or fee of occupancy is paid.

29 (c) The word "person" as used in this Section shall have the same

1 meaning as contained in R.S. 47:301(8).

2 (5) The taxes authorized in this Section shall be imposed by ordinance
3 adopted by the district, acting by and through its board, without the need of an
4 election.

5 (6) It is hereby recognized that there are currently no hotel occupancy
6 or sales taxes generated at the property within the district. Accordingly, if the
7 district elects to levy and collect any of the taxes authorized in this Section, such
8 levy shall be deemed to supersede and be in lieu of only such other taxes on
9 hotel occupancy and sales that, without the authority of this Section, would
10 otherwise be levied within the district, do not secure bonds that have been
11 authorized, that have not been dedicated by other law or by proposition
12 approved by electors voting in an election for such purpose, and that are not
13 based on a per-head or per-person basis. Additionally, if, during the term of the
14 district, such other taxes on hotel occupancy or sales within the district that are
15 currently not available for use for tax increment financing purposes should
16 subsequently cease to be authorized to secure bonds, cease to secure bonds that
17 have been authorized, or cease to be dedicated by other law or by proposition
18 approved by electors voting in an election for such purpose, and thus, become
19 available for the use of the financing purposes pursuant to this Section, then
20 such levy shall at such time be deemed to supersede and be in lieu of such other
21 taxes on hotel occupancy or sales within the district and shall be available for
22 use for the purposes of the district; however, if the district elects to levy and
23 collect any of the taxes authorized in this Section, such levy shall not be deemed
24 to supersede or be in lieu of the occupancy tax authorized by R.S.
25 33:4574.1.1(A)(6) relating to Visit Baton Rouge regardless of whether such
26 occupancy tax is pledged or dedicated to secure debt or bonds that have been
27 authorized and the proceeds of the avails of the occupancy taxes authorized in
28 R.S. 33:4574.1.1(A)(6) shall be dispersed and used for the purposes set forth
29 therein and as further provided in R.S. 33:4574.1.1(L).

1 **G. Tax financing. (1)(a) The district may issue revenue bonds, in one or**
2 **more series, payable from an irrevocable pledge and dedication of up to the full**
3 **amount of the district's hotel occupancy and sales tax increments and other**
4 **district revenues, leases, gifts, proceeds, rents, or other advantages as**
5 **authorized by this Section, in an amount to be determined by the district, to**
6 **secure any financing or multiple refinancings of any costs incurred or to be**
7 **incurred in connection with any project or projects, or parts thereof, within the**
8 **boundaries of the district. Additionally, without the necessity of issuing revenue**
9 **bonds, the district may pledge up to the full amount of the district's hotel**
10 **occupancy and sales tax increments and other district revenues, leases, gifts,**
11 **proceeds, rents, or other advantages received or collected under the authority**
12 **of this Section to any financing or multiple refinancings of any costs incurred**
13 **or to be incurred in connection with any project or projects, or parts thereof,**
14 **within the boundaries of the district in furtherance of the purposes of the**
15 **district. Such financing may include but shall not be limited to any loan or**
16 **loans, mortgages, the issuance of bonds, or the issuance of certificates of**
17 **indebtedness. For each of the designated nonvoter elected, pledged or dedicated**
18 **hotel occupancy taxes and sales taxes collected within the district, a tax**
19 **increment shall consist of that portion of the aggregate of such tax revenues**
20 **collected by the district each year which exceeds the amount of such taxes that**
21 **were collected in the year immediately prior to the year in which the district**
22 **was established.**

23 **(b) The pledge or dedication of tax increments authorized by this Section**
24 **to pay indebtedness shall not impair existing obligations of the district and shall**
25 **not include tax revenues previously dedicated by the district for a special**
26 **purpose.**

27 **(2) Any instruments or obligations of the district may be validly**
28 **executed, issued, sold, and delivered, notwithstanding that one or more of the**
29 **officers of the board signing such instruments or obligations, or whose facsimile**

1 signature or signatures may be on the instruments or obligations, shall have
2 ceased to be such officer of the board at the time such instruments or
3 obligations shall actually have been delivered.

4 (3) Any cost, obligation, or expense incurred for any of the purposes or
5 powers of the district specified in this Section shall be a part of the project costs
6 and may be paid or reimbursed as such out of the proceeds of bonds, tax
7 increments, property or other obligations of, pledged or issued by the district.

8 (4) The authority granted to the district pursuant to the provisions of this
9 Section is consistent with and subject to the limitations provided in R.S.
10 33:9038.42.

11 H. Term. The district shall dissolve and cease to exist one year after the
12 date on which all loans, bonds, notes, and other evidences of indebtedness
13 secured, in whole or in part, by district taxes or property are paid in full as to
14 both principal and interest; however, under no event shall the district have an
15 existence of more than thirty years from the date on which the taxes authorized
16 pursuant to this Section are first levied and collected.

17 I. Contesting ordinance or resolution; time limit. Any ordinance or
18 resolution adopted by the board including but not limited to an ordinance
19 adopted pursuant to Paragraph (F)(5) of this Section, or the pledge of tax
20 increments collected under the authority of this Section to any financing
21 authorized by this Section shall be published at least twice in the official journal
22 of East Baton Rouge Parish. For thirty days after the date of publication, any
23 person in interest may contest the legality of the ordinance or resolution and of
24 any provision therein made for the security and payment of the debt obligation
25 or the levy and collection of taxes. After that time, no one may file for any cause
26 of action to test the regularity, formality, legality, or effectiveness of the
27 ordinance or resolution, and provisions thereof for any cause whatever, except
28 for fraud. Thereafter, it shall be conclusively presumed that every legal
29 requirement for the levy and collection of taxes, the issuance of bonds or other

1 debt obligations, or the pledge of tax increment collected, including all things
 2 pertaining to the authorizing thereof, has been complied with. No court shall
 3 have authority to inquire into any of these matters after the thirty-day period
 4 after publication unless a claim pursuant to this Section has been filed.

5 J. Liberal construction. This Section, being necessary for the welfare of
 6 the city and its residents, shall be liberally construed to effect the purposes
 7 thereof.

8 K. Severability. The provisions of this Section are severable. It is
 9 intended that if any provision of this Section should be adjudged invalid or
 10 unenforceable, then such provision shall be ineffective to the extent of such
 11 invalidity or unenforceability without invalidating the remaining provisions of
 12 this Section. Notwithstanding any provision of this Section to the contrary, if
 13 any portion of a tax levied or tax increment pledged or dedicated pursuant to
 14 this Section is held invalid, such invalidity shall not affect the validity of the
 15 remaining portion of such tax or tax increment.

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

DIGEST

SB 475 Engrossed

2022 Regular Session

Barrow

Proposed law creates the Baker Main Street Economic Development District in East Baton Rouge Parish as a special taxing district and political subdivision of the state.

Proposed law provides that the purpose of the district is to provide for cooperative economic development in order to provide for the redevelopment of, and dramatic improvement to, the property within the district located in the city of Baker.

Proposed law provides that the district be governed by a seven-member board of commissioners. All members will constitute a quorum for the transaction of business. The commissioners shall be:

- (1) The mayor of the city of Baker, or his designee.
- (2) The mayor of the city of Baker will appoint one member, from a list of nominees submitted by the Baker City Council.
- (3) The Baker City Council will appoint one member who is elected to the city council.
- (4) The member of the Louisiana State Senate who represents District 15 will appoint one member.

- (5) The member of the Louisiana House of Representatives who represents District 63 will appoint one member.
- (6) The board of directors of the Baker Chamber of Commerce will appoint one member who is serving or has served as president of the chamber's board.
- (7) The Baker City School Board will appoint one member from a list of nominees submitted to the school board.

Proposed law provides that the domicile of the board will be established by the board at a location within the district. Provides the general rights and powers of the district and its board of commissioners. Provides that the district will be subject to the Public Records Law, officials journals law, Code of Governmental Ethics, and audit law.

Proposed law authorizes the district to exercise the power of economic development districts in the TIF provisions for local governmental subdivisions in present law including ad valorem tax increment financing and sales tax increment financing; the power of community development districts to levy special assessments for the payment of bonds, financing, maintenance and preservation; and the levy of sales taxes or hotel occupancy taxes above and in addition to any other sales taxes or hotel occupancy taxes then in existence or permitted to be in existence within the district, in an amount as may be determined by the board with the approved written consent of the owners of immovable property in the district, all in addition to the powers of economic development districts granted in proposed law and the power to levy taxes in the TIF law subject to the limitations and prohibitions of the Louisiana Constitution.

Proposed law provides that the aggregate tax rates of the sales tax and occupancy tax must be at least equal to the aggregate rate of all sales and occupancy taxes within the city-parish. In addition, the taxes levied are deemed to supersede other local sales and occupancy taxes if the taxes:

- (1) Do not secure bonds that have been authorized.
- (2) Have not been dedicated by other law or by proposition approved by electors.
- (3) Are not based on a per-head or per-person basis.
- (4) Is not the occupancy tax authorized by present relating to Visit Baton Rouge.

Proposed law authorizes the district to use hotel and sales tax incremental financing or other financing pledging the revenues of the district. Provides relative to publishing requirements for certain actions by the board. Prohibits court authority into board action relative to adoption of ordinances or resolutions or pledge of tax increments after 30 days after publication unless a claim has been filed.

Effective August 1, 2022.

(Adds R.S. 33:9038.74)