

2017 Regular Session

SENATE BILL NO. 227

BY SENATOR BARROW

SPECIAL DISTRICTS. Creates and provides for the Bethany Convention Center Development District in East Baton Rouge Parish. (gov sig)

1 AN ACT

2 To enact R.S. 33:9038.71, relative to cooperative and economic development in East Baton

3 Rouge Parish; to create the Bethany Convention Center Development District as a

4 special taxing and tax increment financing district in East Baton Rouge Parish; to

5 provide for the boundaries of the district; to provide for the governance of the

6 district; to provide for the authority, powers, duties, and functions of the governing

7 body; to provide for the levy and collection of taxes within the district; to authorize

8 the district to issue and sell bonds; to authorize the district to engage in tax increment

9 financing; to provide for an effective date; and to provide for related matters.

10 Notice of intention to introduce this Act has been published.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 33:9038.71 is hereby enacted to read as follows:

13 **§9038.71. Bethany Convention Center Development District**

14 **A. Creation. There is hereby created in the city of Baker, parish of East**

15 **Baton Rouge, hereinafter referred to as "Baker", the Bethany Convention**

16 **Center Development District, a special taxing district, body politic and**

17 **corporate of the state, referred to in this Section as the "district". The district**

1 shall be a political subdivision of the state and the district is hereby granted all
2 of the rights, powers, privileges, and immunities accorded by law and the
3 Constitution of Louisiana to political subdivisions of the state, subject to the
4 limitations provided in this Section.

5 B. Boundaries. The district shall be comprised of the following described
6 parcels or tracts of land located in Baker, referred to in this Section as the
7 "property":

8 PARCEL 1:

9 A certain lot or parcel of ground, together with all buildings and improvements
10 thereon, situated in that part of the city of Baker known as Ward: 2-2 #44, Lot
11 D-5. Subdiv: BROWN TRACT. 6.89 ACRES, BEING TRACT D-5 OF THE
12 BROWN TRACT, ORIGINALLY THE WHITESELL PROPERTY IN SEC.
13 53, T5S, R1E, (LESS TO STATE OF LA. DEPT. HWY;

14 PARCEL 2:

15 A certain lot or parcel of ground, together with all buildings and improvements
16 thereon, situated in that part of the city of Baker known as Ward: 2-2 #53..24.63
17 ACRES CONSISTING OF TRACTS "D-6" AND "D-7" AND THE
18 UNDISPOSED PORTION OF THE WILLIAM L. WHITESELL 43 ACRE
19 TRACT IN SEC. 53, T5S, R1E;

20 PARCEL 3:

21 A certain lot or parcel of ground, together with all buildings and improvements
22 thereon, situated in that part of the city of Baker known as Ward: 2-2 #49, Lot:
23 X, Subdiv: IOWA-LA. LAND CO.. LOT "X" CONT. 1.377 ACRES RESUB.
24 OF THE NORTH 28.20 ACRE & 15.00 ACRE TRACT IN SEC. 53, T5S, R1E
25 OF THE IOWA LAND CO., BEING PART OF THE BROWN TRACT. 1976.
26 (P-32,091). 1984. (P-43,538);

27 PARCEL 4:

28 A certain lot or parcel of ground, together with all buildings and improvements
29 thereon, situated in that part of the city of Baker known as Ward: 2-2 #54..LOT

1 2-C, CONT 4.299 ACRES RESUB. OF LOT 2 IN SEC. 53, T5S, R1E. 1999.
 2 (885-11056). RESUB. 1999. IMPS. 2800-6300.;

3 PARCEL 5:

4 A certain lot or parcel of ground, together with all buildings and improvements
 5 thereon, situated in that part of the city of Baker known as Ward: 2-2 #45,
 6 Lot: 12, Subdiv: BETHANY BAPTIST CHURCH. PROPERTY LOT 12,
 7 CONT. 7.461 ACRES RESUB. OF LOTS Y, D-2 & TRACT D-1-1 OF THE
 8 OLD BROWN TRACT, BEING BETHANY BAPTIST CHURCH PROPERTY
 9 IN SEC. 53, T5S, R1E. 1986. (647-648-9888). RESUB. 2001-05.

10 PARCEL 6:

11 A certain lot or parcel of ground, together with all buildings and improvements
 12 thereon, situated in that part of the city of Baker known as Ward: 2-2 #46, Lot
 13 13, Subdiv: BETHANY BAPTIST CHURCH. PROPERTY LOT 13, CONT.
 14 1.367 ACRES RESUB. OF LOTS Y, D-2 & TRACT D-1-1 OF THE OLD
 15 BROWN TRACT, BEING BETHANY BAPTIST CHURCH PROPERTY IN
 16 SEC. 53, T5S, R1E. 1986. (647-648-9888). RESUB. 2001-05.;

17 PARCEL 7:

18 A certain lot or parcel of ground, together with all buildings and improvements
 19 thereon, situated in that part of the city of Baker known as Ward: 2-2 #47, Lot
 20 8-A, Subdiv: BETHANY BAPTIST CHURCH. PROPERTY LOT 8-A, CONT.
 21 33.311 ACRES RESUB. OF LOT 8, BETHANY BAPTIST CHURCH
 22 PROPERTY & LOT 10, MILLARD T. OLIVER PROPERTY, IN SEC. 53,
 23 T5S, R1E. 1986. (647-648-9888). 2005. (745-11739). RESUB. 2001-05.

24 C. Purpose. The state hereby acknowledges that the redevelopment of
 25 the property within the district is an important element of the continued
 26 revitalization and economic development of the city-parish. The district is
 27 created to provide for cooperative economic development among the district,
 28 Baker, the state and the owners of property in the district, in order to assist in
 29 the redevelopment of, and dramatic improvement to, the property within the

1 boundaries of the district.

2 D. Governance. (1) In order to provide for the orderly development of
3 the district and effectuation of the purposes of the district, the district shall be
4 administered and governed by a board of commissioners, referred to in this
5 Section as the "board", comprised of six persons as follows:

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

7 (b) Each council member of the Baker City Council.

8 (2) All the members of the board shall constitute a quorum for the
9 transaction of business. The board shall keep minutes of all meetings and shall
10 make them available for inspection through the board's secretary-treasurer.
11 The minute books and archives of the district shall be maintained by the board's
12 secretary-treasurer. The monies, funds, and accounts of the district shall be in
13 the official custody of the board.

14 (3) The board shall adopt bylaws and prescribe rules to govern its
15 meetings. The members of the board shall serve without salary or per diem and
16 shall be entitled to reimbursement for reasonable, actual, and necessary
17 expenses incurred in the performance of their duties.

18 (4) The domicile of the board shall be established by the board at a
19 location within the district or at Baker City Hall.

20 (5) The board shall elect from its own members a president, vice
21 president, and a secretary-treasurer, whose duties shall be common to such
22 offices or as may be provided by bylaws adopted by the district. The board shall
23 hold regular meetings and may hold special meetings as provided in the bylaws.
24 The failure of the board to hold any regular meeting shall not impair any
25 existing obligations of the district. All such meetings shall be public meetings
26 subject to the provisions of R.S. 42:11, et seq.

27 (6) The district shall be subject to the Public Records Law, official
28 journals law, Code of Governmental Ethics, and audit law pursuant to R.S.
29 24:513.

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

6 (1) To sue and to be sued.

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

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

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

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

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

22 (7) In its own name and on its own behalf to incur debt and to issue
23 bonds, notes, certificates, and other evidences of indebtedness, and in the event
24 the district elects to issue bonds pursuant to the authority under this Section,
25 then the district shall be deemed and considered to be an issuer for purposes of
26 R.S. 33:9037, and shall, to the extent not in conflict with this Section, be subject
27 to the provisions of R.S. 33:9037.

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

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

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

6 **(11) To enter into one or more agreements to provide for the collection**
7 **of the taxes levied within the district and remittance of the taxes to the**
8 **appropriate recipients.**

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

19 **(13) To levy sales taxes, or hotel occupancy taxes within the district or**
20 **any combination of such taxes, above and in addition to any other sales taxes,**
21 **or hotel occupancy taxes, or combination of such taxes, then in existence or**
22 **permitted to be in existence within the district, in an amount as may be**
23 **determined by the board with the approved written consent of the owners of**
24 **immovable property in the district, all in addition to the powers authorized**
25 **pursuant to Paragraph (12) of this Subsection and pursuant to R.S. 33:9038.39,**
26 **subject to the limitations and prohibitions of the Louisiana Constitution.**

27 **F. Levy of Taxes. (1) In order to provide funds for the purposes of the**
28 **district, the district, acting by and through its board, is hereby authorized to**
29 **levy and collect within the district:**

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

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

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

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

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

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

23 (c) The food and beverage tax shall be paid by the person who pays for
24 the food and beverages at the point of sale.

25 (d) The word "person" as used in this Section shall have the same
26 meaning as contained in R.S. 47:301(8).

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

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

26 G. Tax Financing. (1)(a) The district may issue revenue bonds, in one
27 or more series, payable from an irrevocable pledge and dedication of up to the
28 full amount of the district's hotel occupancy and sales tax increments and other
29 district revenues, leases, gifts, proceeds, rents, or other advantages as

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

19 (b) The pledge or dedication of tax increments authorized by this Section
20 to pay indebtedness shall not impair existing obligations of the district and shall
21 not include tax revenues previously dedicated by the district for a special
22 purpose.

23 (2) Any instruments or obligations of the district may be validly
24 executed, issued, sold, and delivered, notwithstanding that one or more of the
25 officers of the board signing such instruments or obligations, or whose facsimile
26 signature or signatures may be on the instruments or obligations, shall have
27 ceased to be such officer of the board at the time such instruments or
28 obligations shall actually have been delivered.

29 (3) Any cost, obligation, or expense incurred for any of the purposes or

1 powers of the district specified in this Section shall be a part of the project costs
2 and may be paid or reimbursed as such out of the proceeds of bonds, tax
3 increments, property or other obligations of, pledged or issued by the district.

4 (4) The authority granted to the district pursuant to the provisions of this
5 Section is consistent with and subject to the limitations provided in R.S.
6 33:9038.42.

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

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

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 upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 33:9038.71)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Increases the board membership from three to six.
2. Adds Baker City Hall as another option of domicile for the board.