

Regular Session, 2014

SENATE BILL NO. 648

BY SENATORS DORSEY-COLOMB, AMEDEE, BROOME, BROWN, GALLOT, GUILLORY, HEITMEIER, JOHNS, KOSTELKA, MILLS, NEVERS AND WARD AND REPRESENTATIVES BARRAS, BARROW, CARTER, COX, FOIL, GREENE, HONORE, JAMES, LEGER, PONTI, SCHEXNAYDER, SMITH, ALFRED WILLIAMS AND PATRICK WILLIAMS

SPECIAL DISTRICTS. Creates and provides for the Old LNB Building Redevelopment District in East Baton Rouge Parish. (gov sig)

1 AN ACT

2 To enact R.S. 33:9038.67, relative to cooperative and economic development in East Baton
3 Rouge Parish; to create the Old LNB Building Redevelopment District as a special
4 taxing and tax increment financing district in East Baton Rouge Parish; to provide
5 for the boundaries of the district; to provide for the governance of the district; to
6 provide for the authority, powers, duties, and functions of the governing body; to
7 provide for the levy and collection of taxes within the district; to authorize the
8 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. 33:9038.67 is hereby enacted to read as follows:

13 **A. Creation. There is hereby created in the city of Baton Rouge, parish**
14 **of East Baton Rouge, hereinafter referred to as the "city-parish", the Old LNB**
15 **Building Redevelopment District, a special taxing district, body politic and**
16 **corporate of the state, referred to in this Section as the "district". The district**
17 **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 district shall be comprised of the following described
5 parcels or tracts of land located in the city-parish, referred to in this Section as
6 the "property":

7 PARCEL 1:

8 A certain rectangular lot or parcel of ground, together with all buildings and
9 improvements thereon, situated in that part of the City of Baton Rouge known
10 as Gilbert Leonard Town, and designated on the plat thereof as Lot Number
11 One (1) of Square Number Three (3), or One Hundred Thirteen (113),
12 according to the official map of the City of Baton Rouge, said square being
13 bounded on the North by Convention Street, on the East by Fourth Street
14 (formerly Church Street), on the South by North Boulevard, and on the West
15 by Third Street, said lot forming the northwest corner of said square and
16 measuring Sixty-four (64) feet front on the East Side of Third Street by a depth
17 of One Hundred Twenty-eight (128) feet along the South side of Convention
18 Street;

19 PARCEL 2:

20 A certain fractional lot or parcel of ground, together with all buildings and
21 improvements thereon, and all the rights, ways, privileges, servitudes and
22 appurtenances thereunto belonging or in anywise appertaining, situated in that
23 subdivision of the Gilbert Leonard Town, East Baton Rouge Parish, Louisiana,
24 and being the northern portion of Lot No. 2 of Square No. 3 of said subdivision,
25 or Square No. 113 according to the official map of the said City of Baton Rouge
26 (said square being bounded by Third, Convention and Fourth (formerly
27 Church) Streets and North Boulevard), said fractional lot being shown on a plan
28 of survey made by A.G. Munding, C.E, and Surveyor, dated April 24th, 1936,
29 a blueprint of which plan is attached to an act of sale passed before B.E.

1 Durrett, Notary Public, on June 30, 1936, recorded in Special Mortgage Book
2 21, Folio 357, of said Parish. The fractional lot or parcel of ground measures 42
3 feet 9 inches front on the east side of Third Street by a depth between parallel
4 lines of 128 feet; being the same property described as follows:
5 A parcel of land being comprised of Lot 1 and portion of Lot 2, Square Three
6 (3) or One Hundred Thirteen (113), Gilbert Leonard Town, of the official map
7 of the City of Baton Rouge, said parcel of land being shown on a plan of survey
8 made by A.G. Munding, C.E., and Surveyor, dated April 24th, 1936, a
9 blueprint of which plan is attached to an act of sale passed before B.E. Durrett,
10 Notary Public on June 30, 1936, recorded in Special Mortgage Book 21, folio
11 357, said map also recorded in Original 40, Bundle 1005 of the Office of Clerk
12 and Recorder, East Baton Rouge Parish, Louisiana, containing 0.314 acres,
13 lying within Section 48, Township 7 South, Range 1 West, Greensburg Land
14 District of said parish, being more particularly described as follows:
15 Begin at the northwest corner of Lot 1, Square Three (3) or One Hundred
16 Thirteen (113) Gilbert Leonard Town, said point being the intersection of the
17 southerly right of way line of Convention Street (69.33' R/W) and the easterly
18 right of way line of Third Street (53.33' R/W), the Point of Beginning; thence go
19 North 87 degrees 59 minutes 28 seconds East along the southerly right of way
20 line of Convention Street a distance of 128.00 feet to the northeast corner of the
21 aforsaid Lot 1; thence, departing the aforsaid southerly right of way line, go
22 South 02 degrees 09 minutes 52 seconds East along the easterly line of the
23 aforsaid Lot 1, and an extension thereof, a distance of 106.75 feet to the
24 southeast corner of said parcel; thence go South 87 degrees 59 minutes 28
25 seconds West along the southerly line, a distance of 128.00 feet to the southwest
26 corner of the aforsaid parcel, said corner being coincident with the
27 aforementioned easterly right of way line of Third Street (53.33' R/W); thence
28 go North 02 degrees 09 minutes 52 seconds West along the aforsaid easterly
29 right of way line a distance of 106.75 feet to the Point of Beginning;

1 the above described parcel of land lies within Square Three (3) or Square One
2 Hundred Thirteen (113), Gilbert Leonard Town, of the official map of the City
3 of Baton Rouge, Section 48, Township 7 South, Range 1 West, Greensburg Land
4 District, City of Baton Rouge, East Baton Rouge Parish, Louisiana, and contains
5 0.314 acres more or less; all as more fully shown on that survey prepared by
6 Sam M. Holladay, III, PLS, dated February 20, 2014, entitled "ALTA/ACSM
7 Land Title Survey of a Parcel of Land Inclusive of Lot 1, Square No. 3, or 113
8 and a portion of Lot 2, Square No. 3, or 113, according to the Official Map of
9 the City of Baton Rouge, lying in Section 48, Township 7 South, Range 1 West,
10 Greensburg Land District, City of Baton Rouge, East Baton Rouge Parish,
11 Louisiana for Commercial Properties Realty Trust."

12 C. Purpose. The state hereby acknowledges that the redevelopment of
13 the property within the district is an important element of the continued
14 revitalization and economic development of the city-parish. The district is
15 created to provide for cooperative economic development among the district,
16 the city-parish, the state and the owners of property in the district, in order to
17 assist in the redevelopment of, and dramatic improvement to, the property
18 within the boundaries of the district.

19 D. Governance. (1) In order to provide for the orderly development of
20 the district and effectuation of the purposes of the district, the district shall be
21 administered and governed by a board of commissioners, referred to in this
22 Section as the "board", comprised of three persons as follows:

23 (a) The mayor-president of the city-parish or his designee.

24 (b) The mayor-president pro-tempore of the city-parish.

25 (c) The council member for Metropolitan Council District No. 10 of the
26 city-parish.

27 (2) All the members of the board shall constitute a quorum for the
28 transaction of business. The board shall keep minutes of all meetings and shall
29 make them available for inspection through the board's secretary-treasurer.

1 The minute books and archives of the district shall be maintained by the board's
2 secretary-treasurer. The monies, funds, and accounts of the district shall be in
3 the official custody of the board.

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

8 (4) The domicile of the board shall be established by the board at a
9 location within the district.

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

17 (6) The district shall be subject to the Public Records Law, official
18 journals law, Code of Governmental Ethics, and audit law pursuant to R.S.
19 24:513.

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

25 (1) To sue and to be sued.

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

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

1 **(4) For the public purposes of the district, to enter into one or more**
2 **contracts, agreements, or cooperative endeavors with the state and its political**
3 **subdivisions or political corporations, the city-parish, the owners of property**
4 **in the district, and with any public or private association, corporation, business**
5 **entity, or person, including but not limited to a cooperative endeavor**
6 **agreement, a pledge and collateral assignment agreements, and tax collection**
7 **agreement.**

8 **(5) To appoint officers, agents, and employees, prescribe their duties, and**
9 **fix their compensation.**

10 **(6) To acquire by gift, grant, purchase, or lease such property within the**
11 **district as may be necessary or desirable for carrying out the objectives and**
12 **purposes of the district and to mortgage and sell such property.**

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

19 **(8) To establish such funds or accounts as are necessary for the conduct**
20 **of the affairs of the district.**

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

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

26 **(11) To enter into one or more agreements to provide for the collection**
27 **of the taxes collected within the district and remittance of the taxes to the**
28 **appropriate recipients.**

29 **(12) To exercise any and all of the powers granted to an economic**

1 development district as if the district were an economic development district
2 established pursuant to Part II of Chapter 27 of Title 33 of the Louisiana
3 Revised Statutes of 1950, including but not limited to the powers of tax
4 increment financing pursuant to R.S. 33:9038.33 and 33:9038.34 and the power
5 to levy taxes within the district pursuant to R.S. 33:9038.39, provided that any
6 such powers exercised by the district shall be subject to the provisions of Part
7 II of Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950 unless
8 such provisions are inconsistent with the provisions of this Section, in which
9 case the provisions of this Section shall control.

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

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

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

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

27 (2) The aggregate tax rate upon the occupancy of hotel rooms, motel
28 rooms, and overnight camping facilities within the district authorized pursuant
29 to Subparagraph (a) of Paragraph (F)(1) shall be at least equal to the aggregate

1 rate of all taxes upon the occupancy of hotel rooms, motel rooms, and overnight
2 camping facilities levied and collected within the city-parish.

3 (3) The aggregate sales tax rate within the district authorized pursuant
4 to Subparagraph (b) of Paragraph (F)(1) shall be at least equal to the aggregate
5 rate of all such sales taxes levied and collected within the city-parish.

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

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

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

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

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

21 (6) It is hereby recognized that there are currently no hotel occupancy
22 or sales taxes generated at the property within the district. Accordingly, if the
23 district elects to levy and collect any of the taxes authorized in this Section, such
24 levy shall be deemed to supersede and be in lieu of only such other taxes on
25 hotel occupancy and sales that, without the authority of this Section, would
26 otherwise be levied within the district, do not secure bonds that have been
27 authorized, that have not been dedicated by other law or by proposition
28 approved by electors voting in an election for such purpose, and that are not
29 based on a per head or per person basis. Additionally, if, during the term of the

1 district, such other taxes on hotel occupancy or sales within the district that are
2 currently not available for use for tax increment financing purposes should
3 subsequently cease to be authorized to secure bonds, cease to secure bonds that
4 have been authorized, or cease to be dedicated by other law or by proposition
5 approved by electors voting in an election for such purpose, and thus, become
6 available for the use of the financing purposes hereunder, then such levy shall
7 at such time be deemed to supersede and be in lieu of such other taxes on hotel
8 occupancy or sales within the district and shall be available for use for the
9 purposes of the district; provided, however, that if the district elects to levy and
10 collect any of the taxes authorized in this Section, such levy shall not be deemed
11 to supersede or be in lieu of the occupancy tax authorized by R.S.
12 33:4574.1.1(A)(6) relating to Visit Baton Rouge regardless of whether such
13 occupancy tax is pledged or dedicated to secure debt or bonds that have been
14 authorized and the proceeds of the avails of the occupancy taxes authorized in
15 R.S. 33:4574.1.1(A)(6) shall be dispersed and used for the purposes set forth
16 therein and as further provided in R.S. 33:4574.1.1(L).

17 G. Tax Financing. (1)(a) The district may issue revenue bonds, in one
18 or more series, payable from an irrevocable pledge and dedication of up to the
19 full amount of the district's hotel occupancy and sales tax increments and other
20 district revenues, leases, gifts, proceeds, rents, or other advantages as
21 authorized by this Section, in an amount to be determined by the district, to
22 secure any financing or multiple refinancings of any costs incurred or to be
23 incurred in connection with any project or projects, or parts thereof, within the
24 boundaries of the district. Additionally, without the necessity of issuing revenue
25 bonds, the district may pledge up to the full amount of the district's hotel
26 occupancy and sales tax increments and other district revenues, leases, gifts,
27 proceeds, rents, or other advantages received or collected under the authority
28 of this Section to any financing or multiple refinancings of any costs incurred
29 or to be incurred in connection with any project or projects, or parts thereof,

1 within the boundaries of the district in furtherance of the purposes of the
2 district. Such financing may include, but shall not be limited to any loan or
3 loans, mortgages, the issuance of bonds, or the issuance of certificates of
4 indebtedness. For each of the designated non-voter elected, pledged or
5 dedicated hotel occupancy taxes and sales taxes collected within the district, a
6 tax increment shall consist of that portion of the aggregate of such tax revenues
7 collected by the district each year which exceeds the amount of such taxes that
8 were collected in the year immediately prior to the year in which the district
9 was established.

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

14 (2) Any instruments or obligations of the district may be validly
15 executed, issued, sold, and delivered, notwithstanding that one or more of the
16 officers of the board signing such instruments or obligations, or whose facsimile
17 signature or signatures may be on the instruments or obligations, shall have
18 ceased to be such officer of the board at the time such instruments or
19 obligations shall actually have been delivered.

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

24 (4) The authority granted to the district pursuant to the provisions of this
25 Section is consistent with and subject to the limitations provided in R.S.
26 33:9038.42.

27 H. Term. The district shall dissolve and cease to exist one year after the
28 date on which all loans, bonds, notes, and other evidences of indebtedness
29 secured, in whole or in part, by district taxes or property are paid in full as to

1 both principal and interest; provided, however, that under no event shall the
2 district have an existence of more than thirty years from the date on which the
3 taxes authorized pursuant to this Section are first levied and collected.

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

21 J. Liberal construction. This Section, being necessary for the welfare of
22 the city-parish and its residents, shall be liberally construed to effect the
23 purposes thereof.

24 K. Severability. The provisions of this Section are severable. It is
25 intended that if any provision of this Section should be adjudged invalid or
26 unenforceable, then such provision shall be ineffective to the extent of such
27 invalidity or unenforceability without invalidating the remaining provisions of
28 this Section. Notwithstanding any provision of this Section to the contrary, if
29 any portion of a tax levied or tax increment pledged or dedicated pursuant to

1 **this Section is held invalid, such invalidity shall not affect the validity of the**
 2 **remaining portion of such tax or tax increment.**

3 Section 2. This Act shall become effective upon signature by the governor or, if not
 4 signed by the governor, upon expiration of the time for bills to become law without signature
 5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 7 effective on the day following such approval.

The original instrument was prepared by Martha Hess. The following digest,
 which does not constitute a part of the legislative instrument, was prepared
 by Jay Lueckel.

DIGEST

Dorsey-Colomb (SB 648)

Proposed law creates the Old LNB Building Redevelopment 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-parish.

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

- (1) The mayor-president of the city-parish or his designee.
- (2) The mayor-president pro-tempore of the city-parish.
- (3) The council member for Metropolitan Council District No. 10 of the city-parish.

Proposed law provides that the domicile of the board shall 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 shall 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 the proposed law and the power to levy taxes in the TIF law in R.S. 33:9038.39, subject to the limitations and prohibitions of the Louisiana Constitution.

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 city-parish 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 R.S. 33:4574.1.1(A)(6) 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. 33:9038.67)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Specifically authorizes the district to levy 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, (a) in an amount as may be determined by the board (b) 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 the proposed law and the power to levy taxes in the TIF law in R.S. 33:9038.39, subject to the limitations and prohibitions of the Louisiana Constitution.
2. Prohibits the district from the taxing the "use" of tangible personal property, but authorizes a tax on the consumption and storage for use or consumption of such property.
3. Prohibits the hotel occupancy tax of the district from superceding any occupancy tax authorized by R.S. 33:4574.1.1(A)(6) relating to Visit Baton Rouge.
4. Reduces the maximum existence of the district from 50 years to 30 years.
5. Limits the district to acquiring necessary property by gift, grant, purchase or lease, deleting the words "or otherwise".

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Changes the board meeting attendance provisions such that only the Mayor-President may have a designee attend board meetings; the other two members shall attend in person.
2. All three members of the board comprise a quorum for the transaction of

business.

3. Makes the district subject to the Public Records Law, officials journals law, Code of governmental Ethics, and audit law.
4. Provides relative to publishing requirements for certain actions by the board.
5. 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.