

2019 Regular Session

SENATE BILL NO. 229

BY SENATOR CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES. Provides for continued collection of certain sales taxes within corporate limits of any municipality incorporated after a certain date. (gov sig)

1 AN ACT
2 To enact Part IX-A of Chapter 6 of Title 33 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 33:3121 through 3125, relative to government within East Baton
4 Rouge Parish; to provide for the continued collection of tax revenue to fund essential
5 public services within the city of St. George; to authorize the parish to continue
6 collection of a previously approved two percent sales and use tax and to continue
7 providing essential public services within the corporate limits of the city of St.
8 George pursuant to intergovernmental agreement; to create a St. George Transition
9 District as a taxing district to provide monies for essential public services within the
10 municipality; to provide for the board of directors of the district; to provide for the
11 duties, powers, and responsibilities of the district; to authorize the district to levy and
12 collect a sales and use tax not to exceed two percent; to provide time limits for the
13 continuation of such taxes; to authorize contracts, intergovernmental agreements, and
14 cooperative endeavors; and to provide for related matters.

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

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. Part IX-A of Chapter 6 of Title 33 of the Louisiana Revised Statutes of

1 1950, comprised of R.S. 33:3121 through 3125, is hereby enacted to read as follows:

2 **Part IX-A. St. George - Transition District**

3 **§3121. Legislative findings; purpose**

4 **The legislature hereby finds and determines that in the event of the**
5 **incorporation of the city of St. George within East Baton Rouge Parish a state**
6 **of emergency will exist in the municipality until cash flow can be developed**
7 **through the levy and collection of municipal sales and use taxes to fund the**
8 **expenses of municipal government. As a result of the foregoing, the legislature**
9 **determines it essential and necessary to authorize the continuation of the parish**
10 **tax within the area incorporated, to authorize the continuation of the provision**
11 **of services by the parish within the area incorporated, and to create a financial**
12 **assistance district and provide for it a source of revenue in order that it may**
13 **engage in cooperative endeavors, enter into contracts for the provision of**
14 **essential public services, and raise revenue to assist the municipality in funding**
15 **the delivery of essential public services to its citizens and to assist the**
16 **municipality in preventing cash flow difficulties.**

17 **§3122. Definitions**

18 **Whenever used in this Act, unless a different meaning clearly appears**
19 **in the context, the following terms, whether used in the singular or plural, shall**
20 **be given the following interpretations:**

21 **(1) "Board" means the board of directors of the district or any successor**
22 **thereto.**

23 **(2) "District" means the St. George Transition District or any successor**
24 **thereto.**

25 **(3) "Mayor-president" means the mayor-president of the city of Baton**
26 **Rouge and parish of East Baton Rouge.**

27 **(4) "Municipality" means the city of St. George in East Baton Rouge**
28 **Parish.**

29 **(5) "Municipal tax" means the two percent sales and use tax levied by**

1 the city of St. George as provided in R.S. 33:3124(D)(5).

2 (6) "Parish" means East Baton Rouge Parish.

3 (7) "Parish tax" means the two percent sales and use tax levied in the
4 unincorporated areas of the parish.

5 §3123. Continued levy of tax by East Baton Rouge Parish

6 Notwithstanding any law to the contrary, in the event a majority of
7 voters vote in favor of incorporation of St. George, the parish may continue to
8 levy and collect the parish tax within the corporate limits of the municipality,
9 pursuant to an intergovernmental agreement between the parish and
10 municipality, for the purpose of providing essential public services to, or
11 funding essential public services for, the citizens within St. George until the St.
12 George Transition District levies and collects a two percent sales and use tax,
13 the municipality levies and collects a two percent sales and use tax, the end of
14 the quarter following the election to impose the municipal tax if the proposition
15 is not approved by the electorate, or twelve months after the incorporation
16 becomes final, whichever occurs first.

17 §3124. St. George Transition District; sales tax

18 A. In furtherance of the purposes of this Part, the St. George Transition
19 District is hereby created as a special taxing district whose boundaries are
20 coterminous with the municipality, and it shall be a body politic and corporate
21 and a political subdivision of the state with all of the powers of a political
22 subdivision and with such further powers and functions as are set forth in this
23 Section. It is hereby determined that the creation of the district and the carrying
24 out of its public purpose is in all respects a public and governmental purpose for
25 the improvement of the health, safety, welfare, comfort, and security of the
26 people of the municipality, and that such purposes are public purposes, and that
27 the district will be performing an essential governmental function and meeting
28 a public obligation in the exercise of the powers conferred upon it by this
29 Section.

1 **B.(1) The district shall be administered and governed by a board of**
2 **directors of five persons composed of:**

3 **(a) The mayor-president or his designee who shall be a registered voter**
4 **and living in the district.**

5 **(b) One member, who shall be a registered voter and living in the**
6 **district, appointed by the senator representing Senate District No. 16.**

7 **(c) One member, who shall be a registered voter and living in the**
8 **district, appointed by the member of the House of Representatives representing**
9 **House District No. 66.**

10 **(d) The chairpersons for the petition for incorporation of St. George or**
11 **their designees.**

12 **(2) The appointed members shall be selected on the basis of their**
13 **experience in management and relevant knowledge and ability to act effectively**
14 **for the best interests of the municipality.**

15 **(3) The board shall elect one of its members as chairman and another**
16 **as treasurer. The board shall appoint a secretary and such other officers as are**
17 **deemed necessary who need not be directors of the district.**

18 **(4)(a) A majority of the directors shall constitute a quorum, and a**
19 **majority vote of the directors constituting the quorum shall be necessary for**
20 **any action taken by the district. No vacancy on the board shall impair the right**
21 **of a quorum to exercise all of the rights and perform all of the duties of the**
22 **district.**

23 **(b) Any vacancy which occurs prior to expiration of the term for which**
24 **a member of the board has been appointed shall be filled for the remainder of**
25 **the unexpired term in the same manner as the original appointment. Board**
26 **members shall be eligible for reappointment.**

27 **(c) Notwithstanding the provision of Subparagraph (b) of this Paragraph**
28 **to the contrary, if the appointing authority fails to make an appointment within**
29 **sixty days of the date of a vacancy, the remaining appointed members may**

1 appoint an individual who signed the petition to incorporate the city of St.
2 George for the remainder of the unexpired term.

3 (5) The board shall fix the place or places at which meetings shall be
4 held. The domicile of the district shall be within the parish.

5 (6) The members of the board shall serve without salary or per diem
6 allowance.

7 C. The district shall have all of the rights and powers necessary to carry
8 out and effectuate the purposes and provisions of this Part. The district shall be
9 subject to the laws pertaining to open meetings, public records, official journals,
10 dual office holding and employment, and the Code of Governmental Ethics.
11 Without limiting the generality of the foregoing, the district shall have the
12 following rights and powers:

13 (1) To adopt bylaws and prescribe rules for the regulation of its affairs
14 and the conduct of its business.

15 (2) To adopt an official seal and alter the same at its pleasure.

16 (3) To maintain an office within the parish at such place as it may
17 designate.

18 (4) To sue and be sued.

19 (5) To receive, administer, and comply with the conditions and
20 requirements respecting any gift, grant, or donation of any property or money.

21 (6) To apply and contract for assistance from the United States or other
22 public or private sources, whether in the form of a grant or loan or otherwise.

23 (7) To make and execute contracts, intergovernmental agreements, and
24 other instruments necessary in the exercise of the powers and functions of the
25 district under this Part, including contracts with persons, firms, corporations,
26 and others.

27 (8) To pledge or assign any contracts or rights of the district.

28 (9) To employ such personnel as may be required in the judgment of the
29 board and to fix and pay their compensation from funds available to the district

1 therefor.

2 (10) To transfer, grant, or donate all or any portion of its revenues to the
3 municipality in order to assist the municipality in funding the delivery of
4 essential public services to its citizens, reducing or eliminating its cash flow
5 deficits or remedying cash flow shortfalls, paying obligations in connection
6 therewith, or any combination of these.

7 (11) To accept the mortgage, pledge, hypothecation, assignment, grant,
8 or donation of any properties of the municipality.

9 (12) To invest its monies in accordance with R.S. 33:2955.

10 (13) To enter into cooperative endeavor agreements or contracts for the
11 provision of staff and meeting facilities and for the provision of such assistance
12 and such essential public services as the district may require in carrying out the
13 intents and purposes of this Part.

14 (14) To incur debt.

15 (15) To exercise any and all other powers necessary to accomplish the
16 purposes set forth in this Part.

17 D.(1) In order to provide funds for the purpose of assisting the
18 municipality to fund the delivery of essential public services to its citizens,
19 reduce or eliminate its cash flow deficit or remedy cash flow shortfalls, pay
20 obligations in connection therewith, or any combination of these, the district is
21 hereby authorized to levy and collect a sales and use tax not to exceed two
22 percent. However, the district shall not levy or collect a tax if the rate thereof,
23 when combined with the rate of the municipal sales and use taxes collected
24 within the municipality, exceeds two percent.

25 (2) The tax shall be imposed by the district without the need of an
26 election and shall be levied upon the sale at retail, the use, the lease or rental,
27 the distribution, the consumption, and the storage for use or consumption of
28 tangible personal property, and on sales of services in the state, as presently
29 defined in and as provided by Chapter 2 of Subtitle II of Title 47 of the

1 Louisiana Revised Statutes of 1950, subject to the tax exemptions provided in
2 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.
3 Notwithstanding any provision of law to the contrary, the levy of the tax shall
4 be effective and the tax shall be payable beginning on such date as shall be
5 provided by the district.

6 (3) The proceeds of the tax shall be irrevocably pledged and dedicated
7 and shall be transferred in such amounts as may be determined by the district
8 to assist the municipality in funding the delivery of essential public services to
9 its citizens, reducing or eliminating its cash flow deficit, remedying cash flow
10 shortfalls, paying obligations in connection therewith, or any combination of
11 these.

12 (4) The district shall contract with the parish for the collection of the tax
13 under such terms and conditions as the board may deem appropriate, and the
14 board may adopt such rules and regulations regarding the enforcement and
15 collection of the tax authorized by this Section as it may deem appropriate.

16 (5) The provisions of this Section shall be void, the district shall cease
17 existence, and any sales and use taxes levied by the district shall expire at such
18 time as the municipality levies and collects a two percent sales and use tax, the
19 end of the quarter following the election to impose the municipal tax if the
20 proposition is not approved by the electorate, or twelve months after the
21 incorporation becomes final, whichever occurs first.

22 E.(1) The district and the proposed municipality created shall be liable
23 for its proportionate share of the parish's outstanding debt secured by the
24 parish taxes incurred before the date of incorporation and its proportionate
25 share of all unfunded liabilities of the parish, including pension plans and other
26 post employment plans incurred before the date of incorporation.

27 (a) This Paragraph shall not apply to debt secured by parish taxes that
28 relates to immovable property not located within the municipality or to debt
29 secured by parish taxes that relates to moveable property not transferred to the

1 municipality.

2 **(b) This Paragraph shall not apply to unfunded liabilities associated with**
3 **employees and retirees who did not provide services to the area of the parish**
4 **included in the municipality.**

5 **(c) Notwithstanding any other provision of law to the contrary, the**
6 **municipality shall not pay more in any year than the percentage of the**
7 **proportionate share of the unfunded liabilities paid by the parish in the same**
8 **year.**

9 **(d) All funds remitted to the parish by the municipality pursuant to this**
10 **Paragraph related to the municipality's proportionate share of bonded**
11 **indebtedness shall be used by the parish for only the retirement of bonded**
12 **indebtedness. All funds remitted to the parish by the municipality pursuant to**
13 **this Paragraph related to the municipality's proportionate share of unfunded**
14 **liabilities shall be used by the parish for only the retirement of the unfunded**
15 **liabilities. No funds remitted to the parish pursuant to this Paragraph shall be**
16 **used for any other purpose.**

17 **(2) In addition, upon the incorporation, the parish shall no longer be**
18 **responsible for providing any municipal services as provided by law, unless**
19 **otherwise agreed to through a cooperative endeavor agreement or**
20 **memorandum of understanding or other agreement.**

21 **(3) No payments to the parish pursuant to this Subsection shall be**
22 **required until the final incorporation of the municipality, or if contested**
23 **pursuant to R.S. 33:3(D), until the judgment is final.**

24 **§3125. Liberal construction**

25 **This Part does and shall be construed to provide a complete method for**
26 **the doing of the things authorized by this Part. The provisions of this Part shall**
27 **be liberally construed for the accomplishment of its purposes.**

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

The original instrument was prepared by Michael Bell. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

SB 229 Reengrossed 2019 Regular Session Claitor

Proposed law, relative to the city of St. George in East Baton Rouge Parish, provides for transition following incorporation, as follows:

- (1) Provides legislative findings and determinations that in the event of incorporation of the city of St. George a state of emergency will exist until cash flow can be developed through the levy and collection of municipal sales and use taxes to fund the expenses of municipal government and that it is essential and necessary to authorize the continuation of current sales and use taxes levied by the parish and the provision of services by the parish within the incorporated area and to create a financial assistance district and provide a source of revenue for it so it may engage in cooperative endeavors, contract for the provision of essential public services, and raise revenue to assist the municipality in funding essential public services and preventing cash flow difficulties.
- (2) Defines terms for purposes of proposed law:
 - (a) Board - the board of directors of the district or any successor thereto.
 - (b) District - the city of St. George Transition District or any successor thereto.
 - (c) Mayor-president - the mayor-president of the city of Baton Rouge and parish of East Baton Rouge.
 - (d) Municipality - city of St. George in East Baton Rouge Parish.
 - (e) Municipal tax - the 2% sales and use tax levied by the city of St. George.
 - (f) Parish - East Baton Rouge Parish.
 - (g) Parish tax - the 2% sales and use tax levied by the city of St. George.
- (3) Upon incorporation of the city of St. George, authorizes the parish to continue to levy and collect the parish tax within the city of St. George pursuant to an intergovernmental agreement between the parish and municipality for the purpose of providing or funding essential public services until the earliest of the following occurs:
 - (a) The city of St. George Transition District levies and collects a 2% sales and use tax; or
 - (b) The municipality levies and collects a 2% sales and use tax; or
 - (c) The end of the quarter following the election to impose the municipal tax, if the voters do not approve the proposition; or

- (d) 12 months after the incorporation of the city of St. George becomes final.
- (4) Creates the city of St. George Transition District as a special taxing district with boundaries coterminous with the municipality. Provides that the district is a body politic and corporate and a political subdivision of the state with all of the powers of a political subdivision. Provides that the legislature determines that the creation of the district and the carrying out of its public purpose is a public and governmental purpose for the improvement of the health, safety, welfare, comfort, and security of the people of the municipality, that such purposes are public purposes, and that the district will be performing an essential governmental function and meeting a public obligation in the exercise of the powers conferred upon it by proposed law.

Provides that the district shall be administered and governed by a five-member board of directors:

- (a) The mayor-president or his designee who shall be a registered voter and living in the district.
- (b) One member, who shall be a registered voter and living in the district, appointed by the senator representing Senate District No. 16.
- (c) One member, who shall be a registered voter and living in the district, appointed by the House member representing House District No. 66.
- (d) The chairpersons for the incorporation petition for the city of St. George or their designees.

Requires that the appointed members be selected on the basis of experience in management, knowledge, and ability to act effectively for the best interests of the municipality.

Requires the board to elect one member as chairman and another as treasurer and to appoint a secretary and such other officers as it deems necessary who need not be board members.

Provides that a majority of the members constitutes a quorum and requires a majority vote of the quorum to take action. Provides that a vacancy shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the district. Requires that the district's domicile be in the parish.

Provides that members serve without salary or per diem.

- (5) Grants the district all of the rights and powers necessary to carry out and effectuate the purposes and provisions of proposed law. Provides that the district is subject to the laws pertaining to open meetings, public records, official journals, dual office holding and employment, and the Code of Governmental Ethics.

Specifically grants the district certain rights and powers, including:

- (a) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money.
- (b) To apply and contract for assistance from public or private sources.
- (c) To make and execute contracts, intergovernmental agreements, and other instruments necessary in the exercise of its powers and functions.
- (d) To pledge or assign any contracts or rights of the district.

- (e) To employ personnel the board deems to be required and to fix and pay their compensation from funds available therefor.
- (f) To transfer, grant, or donate all or any portion of its revenues to the municipality to assist in funding essential public services, reducing or eliminating its cash flow deficits or remedying cash flow shortfalls, paying obligations in connection therewith, or any combination of these.
- (g) To accept the mortgage, pledge, hypothecation, assignment, grant, or donation of any properties of the municipality.
- (h) To invest its monies in accordance with present law (R.S. 33:2955) relative to investments by political subdivisions.
- (i) To enter into cooperative endeavor agreements or contracts for the provision of staff and meeting facilities and for the provision of such assistance and such essential public services as the district may require in carrying out the intents and purposes of proposed law.
- (j) To incur debt.
- (k) To exercise any and all other powers necessary to accomplish the purposes of proposed law.

- (6) Authorizes the district to levy and collect a 2% sales tax to provide funds to assist the municipality to fund essential public services, reduce or eliminate its cash flow deficit or remedy cash flow shortfalls, pay obligations in connection therewith, or any combination of these. Prohibits such levy if the rate of such tax, when combined with the rate of the municipal sales and use taxes collected within the municipality, exceeds 2%.

Provides for levy of the tax by district ordinance without the need for an election, in accordance with present law relative to sales taxes. Provides that the tax levy shall be effective and the tax shall be payable beginning on such date as provided by the district.

Requires that tax proceeds are irrevocably pledged and dedicated and shall be transferred in such amounts as may be determined by the district to assist the municipality in funding essential public services, reducing or eliminating its cash flow deficit, remedying cash flow shortfalls, paying obligations in connection therewith, or any combination of these. Requires the district to contract with the parish for tax collection and authorizes board rules regarding enforcement and collection of the tax.

Provides that proposed law relative to the city of St. George Transition District and its powers and duties shall be void, that the district shall cease existence, and that any sales tax levied by the district shall expire when the earliest of the following occurs: (a) the municipality levies and collects a 2% sales tax; (b) the end of the quarter following the election to impose the municipal tax, if the proposition is not approved by the electorate; or (c) 12 months after the incorporation becomes final.

- (7) Provides for the district and the proposed municipality created to be liable for its proportionate share of the parish's outstanding debt secured by the parish taxes incurred before the date of incorporation and its proportionate share of all unfunded liabilities of the parish, including pension plans incurred before the date of incorporation and other post employment plans.
- (a) Provides the proposed law will not apply to debt secured by parish taxes that

relates to immovable property not located within the municipality or to debt secured by parish taxes that relates to moveable property not transferred to the municipality.

- (b) Provides the proposed law will not apply to unfunded liabilities associated with employees and retirees who did not provide services to the area of the parish included in the municipality.
 - (c) Provides that, notwithstanding any other provision of law to the contrary, the municipality will not pay more in any year than the percentage of the proportionate share of the unfunded liabilities paid by the parish in the same year.
 - (d) provides that all funds remitted to the parish by the municipality pursuant to proposed law related to the municipality's proportionate share of bonded indebtedness will be used by the parish for only the retirement of bonded indebtedness. All funds remitted to the parish by the municipality pursuant to proposed law related to the municipality's proportionate share of unfunded liabilities will be used by the parish for only the retirement of the unfunded liabilities. No funds remitted to the parish pursuant to proposed law will be used for any other purpose.
- (8) Provides for an exception that the parish will no longer be responsible for providing any municipal services as provided by law, unless agreed through a cooperative endeavor agreement or memorandum of understanding or other agreement.
- (9) Provides that no payments to the parish will be required until the final incorporation of the municipality, or if contested pursuant to R.S. 33:3(D), until the judgment is final.
- (10) Provides that proposed law is to be construed to provide a complete method for the doing of the things it authorizes and that its provisions shall be liberally construed for the accomplishment of its purposes.

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

(Adds R.S. 33:3121-3125)

Summary of Amendments Adopted by Senate

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

1. Changes the percentage of sales and use tax from three to two.
2. Provides for the district and the proposed municipality created to be liable for its proportionate share of the parish's outstanding debt secured by the parish taxes and of all unfunded liabilities of the parish, including pension plans and other post employment plans.
3. Provides for an exception that the parish shall no longer be responsible for providing any municipal services as provided by law, unless agreed through a cooperative endeavor agreement or memorandum of understanding or other agreement.

Senate Floor Amendments to engrossed bill

1. Makes technical change from null, void, and without effect to void.
2. Adds that the district and proposed municipality will be liable for its proportionate share of certain debt and unfunded liabilities that were incurred before the date of incorporation.
3. Specifies that this debt provision will not apply to debt secured by parish taxes that relate to immovable property not located within the municipality or to debt secured by parish taxes that relates to moveable property not transferred to the proposed new municipality.
4. Specifies that this unfunded liability provision will not apply to unfunded liabilities associated with employees and retirees who did not provide services to the area of the parish included in the proposed new municipality.
5. Specifies that the proposed new municipality will not pay more in any year than the percentage of the proportionate share of the unfunded liabilities paid by the parish in the same year.
6. Specifies that funds remitted to the parish related to the proposed new municipality's proportionate share of bonded indebtedness will be used by the parish for only the retirement of bonded indebtedness and all funds remitted to the parish related to the proposed new municipality's proportionate share of unfunded liabilities will be used by the parish for only the retirement of unfunded liabilities. Further provides that no funds remitted to the parish pursuant to the proposed new municipality will be used for any other purpose.
7. Specifies that no payments will be required to the parish until final incorporation of the proposed new municipality or if contested until a final judgement.