

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)

1 AN ACT

2 To enact R.S. 33:9038.74, relative to cooperative and economic development in East Baton
3 Rouge Parish; to create the Baker Main Street Economic 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. 33:9038.74 is hereby enacted to read as follows:

13 **§9038.74. Baker Main Street Economic 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 Baker Main Street**
16 **Economic 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 boundaries of the district shall consist of the
6 following area:

7 Beginning at the intersection of Lavey Lane/South Magnolia
8 Drive on Hwy 19 (Main Street), then traveling North. Lot CVS, Resub
9 of Lots 8-10, 11A, 11B & A port of Lots 1-7, SQ 17 Baker Townsite
10 Resub 2012. All of Main Street to its intersection with the northern most
11 corporate line of Baker; encompassing all commercial properties located
12 on Hwy 19 (Main Street) and extends to end at C-4-B-1 Resub of tract
13 C-4 of the Winder K.Dunbar property. Resub.1989. Note: Sale Reads
14 Baker Regional Shopping Center. (Subway)

15 C. Purpose. The state hereby acknowledges that the redevelopment of
16 the property within the district is an important element of the continued
17 revitalization and economic development of the city-parish. The district is
18 created to provide for cooperative economic development among the district,
19 Baker, the state, and the owners of property in the district, in order to assist in
20 the redevelopment of, and dramatic improvement to, the property within the
21 boundaries of the district and for the purpose of promoting trade, commerce,
22 industry, and employment opportunities in the city of Baker's Central Business
23 District.

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

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

29 (b) The mayor of the city of Baker shall appoint one member, from a list

1 of nominees submitted by the Baker City Council.

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

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

6 (e) The member of the Louisiana House of Representatives whose district
7 encompasses all or the greater portion of the area of the district shall appoint
8 one member.

9 (f) The board of directors of the Baker Chamber of Commerce shall
10 appoint one member who is serving or has served as president of the chamber's
11 board.

12 (g) The city of Baker School Board shall appoint one member from a list
13 of nominees submitted to the school board.

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

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

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

22 (4) All the members of the board shall constitute a quorum for the
23 transaction of business. The board shall keep minutes of all meetings and shall
24 make them available for inspection through the board's secretary. The minute
25 books and archives of the district shall be maintained by the board's secretary.
26 The monies, funds, and accounts of the district shall be in the official custody
27 and control of the board of commissioners. The board's treasurer shall maintain
28 adequate accounting records and assure all monies are deposited, expended,
29 and accounted for in accordance with the bylaws.

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

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

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

14 **(8) The district shall be subject to the Public Records Law, official**
15 **journals law, Code of Governmental Ethics, and audit law pursuant to R.S.**
16 **24:513.**

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

21 **(1) To sue and to be sued.**

22 **(2) To adopt bylaws and rules and regulations.**

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

26 **(4) For the public purposes of the district, to enter into one or more**
27 **contracts, agreements, or cooperative endeavors with the state and its political**
28 **subdivisions or political corporations, Baker, the owners of property in the**
29 **district, and with any public or private association, corporation, business entity,**

1 or person, including but not limited to a cooperative endeavor agreement, a
2 pledge and collateral assignment agreements, and tax collection agreement.

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

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

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

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

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

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

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

24 (12) To exercise any and all of the powers granted to an economic
25 development district as if the district were an economic development district
26 established pursuant to Part II of Chapter 27 of Title 33 of the Louisiana
27 Revised Statutes of 1950, including but not limited to the powers of tax
28 increment financing pursuant to R.S. 33:9038.33 and 9038.34 and the power to
29 levy taxes within the district pursuant to R.S. 33:9038.39, provided that any

1 such powers exercised by the district shall be subject to the provisions of Part
2 II of Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950, unless
3 such provisions are inconsistent with the provisions of this Section, in which
4 case the provisions of this Section shall control.

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

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

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

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

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

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

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

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

9 **(c) The word "person" as used in this Section shall have the same**
10 **meaning as contained in R.S. 47:301.**

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

14 **(6) It is hereby recognized that there are currently no hotel occupancy**
15 **or sales taxes generated at the property within the district. Accordingly, if the**
16 **district elects to levy and collect any of the taxes authorized in this Section, such**
17 **levy shall be deemed to supersede and be in lieu of only such other taxes on**
18 **hotel occupancy and sales that, without the authority of this Section, would**
19 **otherwise be levied within the district, do not secure bonds that have been**
20 **authorized, that have not been dedicated by other law or by proposition**
21 **approved by electors voting in an election for such purpose, and that are not**
22 **based on a per-head or per-person basis. Additionally, if, during the term of the**
23 **district, such other taxes on hotel occupancy or sales within the district that are**
24 **currently not available for use for tax increment financing purposes should**
25 **subsequently cease to be authorized to secure bonds, cease to secure bonds that**
26 **have been authorized, or cease to be dedicated by other law or by proposition**
27 **approved by electors voting in an election for such purpose, and thus, become**
28 **available for the use of the financing purposes pursuant to this Section, then**
29 **such levy shall at such time be deemed to supersede and be in lieu of such other**

1 taxes on hotel occupancy or sales within the district and shall be available for
2 use for the purposes of the district; however, if the district elects to levy and
3 collect any of the taxes authorized in this Section, such levy shall not be deemed
4 to supersede or be in lieu of the occupancy tax authorized by R.S.
5 33:4574.1.1(A)(6) relating to Visit Baton Rouge regardless of whether such
6 occupancy tax is pledged or dedicated to secure debt or bonds that have been
7 authorized and the proceeds of the avails of the occupancy taxes authorized in
8 R.S. 33:4574.1.1(A)(6) shall be dispersed and used for the purposes set forth
9 therein and as further provided in R.S. 33:4574.1.1(L).

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

1 were collected in the year immediately prior to the year in which the district
2 was established.

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

7 (2) Any instruments or obligations of the district may be validly
8 executed, issued, sold, and delivered, notwithstanding that one or more of the
9 officers of the board signing such instruments or obligations, or whose facsimile
10 signature or signatures may be on the instruments or obligations, shall have
11 ceased to be such officer of the board at the time such instruments or
12 obligations shall actually have been delivered.

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

17 (4) The authority granted to the district pursuant to the provisions of this
18 Section is consistent with and subject to the limitations provided in R.S.
19 33:9038.42.

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

26 I. Contesting ordinance or resolution; time limit. Any ordinance or
27 resolution adopted by the board including but not limited to an ordinance
28 adopted pursuant to Paragraph (F)(5) of this Section, or the pledge of tax
29 increments collected under the authority of this Section to any financing

1 authorized by this Section shall be published at least twice in the official journal
 2 of East Baton Rouge Parish. For thirty days after the date of publication, any
 3 person in interest may contest the legality of the ordinance or resolution and of
 4 any provision therein made for the security and payment of the debt obligation
 5 or the levy and collection of taxes. After that time, no one may file for any cause
 6 of action to test the regularity, formality, legality, or effectiveness of the
 7 ordinance or resolution, and provisions thereof for any cause whatever, except
 8 for fraud. Thereafter, it shall be conclusively presumed that every legal
 9 requirement for the levy and collection of taxes, the issuance of bonds or other
 10 debt obligations, or the pledge of tax increment collected, including all things
 11 pertaining to the authorizing thereof, has been complied with. No court shall
 12 have authority to inquire into any of these matters after the thirty-day period
 13 after publication unless a claim pursuant to this Section has been filed.

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

17 K. Severability. The provisions of this Section are severable. It is
 18 intended that if any provision of this Section should be adjudged invalid or
 19 unenforceable, then such provision shall be ineffective to the extent of such
 20 invalidity or unenforceability without invalidating the remaining provisions of
 21 this Section. Notwithstanding any provision of this Section to the contrary, if
 22 any portion of a tax levied or tax increment pledged or dedicated pursuant to
 23 this Section is held invalid, such invalidity shall not affect the validity of the
 24 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.

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)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes change to the boundaries of the district.