

Regular Session, 2012

HOUSE BILL NO. 971

BY REPRESENTATIVE BARROW

TAX/LEASE: Authorizes East Baton Rouge Parish to create an automobile rental tax district

1 AN ACT

2 To enact R.S. 47:551.1, relative to special districts; to authorize the establishment of an
3 automobile rental tax district in East Baton Rouge Parish; to provide for the
4 boundaries, governance, and powers of the district; to authorize the levy of a tax on
5 the lease or rental of certain automobiles under certain circumstances; to provide for
6 the use of the avails of the tax; to provide for an effective date; and to provide for
7 related matters.

8 Notice of intention to introduce this Act has been published
9 as provided by Article III, Section 13 of the Constitution of
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:551.1 is hereby enacted to read as follows:

13 §551.1. Automobile rental tax district; East Baton Rouge Parish

14 A.(1) The governing authority of the parish of East Baton Rouge may create,
15 by ordinance, an automobile rental tax district, referred to in this Section as the
16 "district". The district shall be a political subdivision of the state as defined in the
17 Constitution of Louisiana.

18 (2) The boundaries of the district shall be coterminous with the boundaries
19 of the parish.

1 (3) The parish governing authority shall be the governing authority of the
2 district.

3 B.(1)(a) The district is authorized to levy an automobile rental tax, not to
4 exceed three percent of the gross proceeds derived from the lease or rental of an
5 automobile pursuant to an automobile rental contract, less any sales and use tax
6 included in such contract. The tax shall be in addition to any tax, fee, or license
7 imposed directly or indirectly.

8 (b) The tax shall be levied only after the question of its levy has been
9 approved by a majority of the registered voters of the district who vote on the
10 proposition authorizing the tax at an election held for that purpose in accordance
11 with the Louisiana Election Code. The election on the question of the levy of the tax
12 shall be held at the same time as a regularly scheduled election in the parish of East
13 Baton Rouge.

14 (c) The tax shall not apply to any automobile rented by an insurance
15 company as a replacement vehicle for a policyholder or by an automobile dealer as
16 a replacement vehicle while a customer's vehicle is being serviced or repaired, nor
17 shall the tax apply to any individual or business who rents a vehicle as a replacement
18 vehicle while his vehicle is being repaired if the individual presents to the renter
19 upon return of the rented vehicle a copy of the repair or service invoice.

20 (2) For purposes of this Section "automobile rental contract" shall mean all
21 agreements for the rental of an automobile without a driver designated to carry less
22 than nine passengers for a period of not more than twenty-nine calendar days. Rental
23 agreements for a period of more than twenty-nine calendar days shall not be subject
24 to the tax, unless the actual period of the rental agreement is less than twenty-nine
25 days as a result of the exercise of a cancellation clause.

26 C. The avails of the tax in East Baton Rouge Parish shall be distributed as
27 follows:

28 (1) Thirty percent to the Arts Council of Greater Baton Rouge for its
29 operations.

1 (2) Thirty percent to the Arts Council of Greater Baton Rouge for grants.

2 (3) Twenty-three percent to the Shaw Center for the Arts.

3 (4) Seventeen percent to the general fund of the parish of East Baton Rouge,
4 city of Baton Rouge.

5 D. The parish governing authority shall prescribe in the ordinance creating
6 the district any other purposes of the district. The parish and the district may enter
7 into a cooperative endeavor agreement providing for cooperative efforts to exercise
8 any authorized governmental function of the parish.

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Barrow

HB No. 971

Abstract: Authorizes the governing authority of East Baton Rouge Parish to create an automobile rental tax district.

Present law (R.S. 47:551) levies, for the period from Aug. 1, 1990, through June 30, 2012, a state tax of 2-½% and a local tax of ½ of 1% of the gross proceeds derived from the lease or rental of an automobile pursuant to an automobile rental contract, less any sales and use tax included in such contract.

Present law excludes the following transactions from any tax that may be imposed:

- (1) Automobiles rented by an insurance company as a replacement vehicle for a policyholder.
- (2) Automobiles rented by an automobile dealer as a replacement vehicle while a customer's vehicle is being repaired.
- (3) An automobile rental by an individual or business who rents a vehicle as a replacement vehicle while his vehicle is being repaired if the individual presents to the renter upon return of the rented vehicle a copy of the repair or service invoice.

Present law defines "automobile rental contract" to mean an agreement for the rental of an automobile without a driver, designated to carry less than nine passengers, for a rental period of not more than 29 calendar days. Provides that rental agreements in excess of 29 days

shall not be subject to the tax, unless the actual period of the rental agreement is less than 29 days as a result of the exercise of a cancellation clause.

Present law provides that tax is payable to the secretary of the Dept. of Revenue. Requires that the tax be collected and enforced pursuant to the provisions of present law (Chapter 2 of Subtitle II of Title 47 of the La. Revised Statutes of 1950) insofar as the provisions are not in conflict with present law (R.S. 47:551).

Present law requires that the local tax be remitted to the secretary of the Dept. of Revenue who collects the tax as an agent of local government. Authorizes the secretary to assess a collection fee, not to exceed ½ of 1% of the proceeds of the tax, as reimbursement for the actual cost of collection.

Present law requires the secretary to distribute monthly the proceeds of the tax to the central local sales and use tax collector or, if none, the parish governing authority. Requires the central local sales and use tax collector or governing authority to distribute at no charge the tax proceeds received from the secretary to each political subdivision in the parish which levies a sales and use tax. Provides that the distribution shall be in accordance with each political subdivision's pro rata share of local sales and use tax receipts collected to the total of all such taxes collected within the parish. Provides specifically for the distribution of proceeds in the parishes of Jefferson and Orleans.

Proposed law retains present law and additionally authorizes the governing authority of East Baton Rouge Parish to create, by ordinance, an automobile rental tax district as a political subdivision of the state. Provides that the boundaries of the district shall be coterminous with the boundaries of the parish. Provides that the parish governing authority shall be the governing authority of the district.

Proposed law authorizes the district, subject to voter approval, to levy an automobile rental tax, not to exceed 3% of the gross proceeds derived from the lease or rental of an automobile pursuant to an automobile rental contract, less any sales and use tax included in such contract. Requires that the election on the question of the levy of the tax be held at the same time as a regularly scheduled election in East Baton Rouge Parish.

Proposed law excludes the same transactions as present law (R.S. 47:551) from any tax that may be imposed. Defines "automobile rental contract" to mean the same as defined in present law (R.S. 47:551). Provides that rental agreements in excess of 29 days shall not be subject to the tax, unless the actual period of the rental agreement is less than 29 days as a result of the exercise of a cancellation clause.

Proposed law requires that the avails of the tax in East Baton Rouge Parish be distributed as follows:

- (1) 30% to the Arts Council of Greater Baton Rouge for its operations.
- (2) 30% to the Arts Council of Greater Baton Rouge for grants.
- (3) 23% to the Shaw Center for the Arts.
- (4) 17% to the general fund of the city of Baton Rouge/parish of East Baton Rouge.

Proposed law requires the parish governing authority to prescribe in the ordinance creating the district any other purposes of the district.

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

(Adds R.S. 47:551.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Relative to the creation of an automobile rental tax district, specifies that the governing authority of East Baton Rouge Parish is authorized to create a district by ordinance. Specifies that a district is a political subdivision of the state.
2. Requires voter approval prior to the levy of a tax by a district and provides relative to the time for holding a tax election.