

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 three persons as follows:

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

7 (b) The mayor pro-tempore of the city of Baker.

8 (c) The council member for Baker City Council who represents the area  
9 of the district.

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

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

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

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

29 (6) The district shall be subject to the Public Records Law, official

1 journals law, Code of Governmental Ethics, and audit law pursuant to R.S.  
2 24:513.

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

8 (1) To sue and to be sued.

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

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

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

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

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

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

1                   **(8) To establish such funds or accounts as are necessary to conduct the**  
2                   **affairs of the district.**

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

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

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

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

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

29                   **F. Levy of Taxes. (1) In order to provide funds for the purposes of the**

1 district, the district, acting by and through its board, is hereby authorized to  
2 levy and collect within the district:

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

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

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

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

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

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

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

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

29 (5) The taxes authorized in this Section shall be imposed by ordinance

1 adopted by the district, acting by and through its board, without the need of an  
2 election.

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

28 G. Tax Financing. (1)(a) The district may issue revenue bonds, in one  
29 or more series, payable from an irrevocable pledge and dedication of up to the



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

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

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

1 obligations shall actually have been delivered.

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

6 (4) The authority granted to the district pursuant to the provisions of this  
7 Section is consistent with and subject to the limitations provided in R.S.  
8 33:9038.42.

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

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

1 have authority to inquire into any of these matters after the thirty-day period  
2 after publication unless a claim pursuant to this Section has been filed.

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

6 K. Severability. The provisions of this Section are severable. It is  
7 intended that if any provision of this Section should be adjudged invalid or  
8 unenforceable, then such provision shall be ineffective to the extent of such  
9 invalidity or unenforceability without invalidating the remaining provisions of  
10 this Section. Notwithstanding any provision of this Section to the contrary, if  
11 any portion of a tax levied or tax increment pledged or dedicated pursuant to  
12 this Section is held invalid, such invalidity shall not affect the validity of the  
13 remaining portion of such tax or tax increment.

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

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Michael Bell.

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DIGEST

SB 227 Original

2017 Regular Session

Barrow

Proposed law creates the Bethany Convention Center Development 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 of Baker.

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 of the city of Baker, or his designee.
- (2) The mayor pro-tempore of the city of Baker.

- (3) The council member of the Baker City Council who represents the area of the district.

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 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)