

2019 Regular Session

SENATE BILL NO. 237

BY SENATORS COLOMB AND BARROW AND REPRESENTATIVE MARCELLE

TAX/LOCAL. Provides relative to certain tax increment financing districts. (gov sig)

1 AN ACT

2 To enact R.S. 33:9038.72, relative to certain special tax increment financing; to provide for  
3 the creation of tax increment financing districts; to provide for cooperative economic  
4 development; to provide for the powers and duties of the district, including the  
5 authority to levy ad valorem taxes, sales taxes, and hotel occupancy taxes; to provide  
6 relative to exemptions from taxation; to authorize the incurrence of debt through the  
7 issuance of bonds, notes, and other forms of indebtedness; to provide for the  
8 validation of bonds and cooperative endeavor agreements; to provide for an effective  
9 date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 33:9038.72 is hereby enacted to read as follows:

12 **§9038.72. Tax increment financing districts**

13 **A. Creation. (1) The legislature has determined that there are many**  
14 **areas of the state where there is substantial and persistent unemployment,**  
15 **underemployment, and other forms of economic distress. Economic distress**  
16 **causes hardship to many individual citizens of the state and their families and**  
17 **adversely affects the welfare and prosperity of the state and its people. In order**

1 to address the needs of these areas for economic development and especially the  
2 creation of employment opportunities, the governing authority of a parish with  
3 a population of more than four hundred forty thousand persons, as established  
4 by the most recent federal decennial census, may create within the portions of  
5 the parish that are economically distressed and suffer from a lack of economic  
6 opportunities one or more special tax increment financing districts, hereinafter  
7 referred to as the "district".

8 (2)(a) The governing authority of a parish as described in Paragraph 1  
9 of this Subsection shall establish the district by ordinance. The ordinance shall  
10 designate the boundaries of the district.

11 (b) When determining whether a portion of a parish suffers from a lack  
12 of economic opportunities and specifically the creation of employment  
13 opportunities, the governing authority of a parish shall consider and use the  
14 data published by the United States Census Bureau relative to individuals below  
15 poverty level contained in the most recent edition of the "American Community  
16 Survey 5-year estimates". Specifically, the governing authority of a parish shall  
17 establish the boundaries of any district established pursuant to this Section  
18 utilizing the data relative to poverty levels as found in ZIP Code Tabulation  
19 Areas (ZCTA) published by the United States Census Bureau and which are  
20 approximate representations of the United States Postal Service five-digit ZIP  
21 codes. The district may contain all or a part of one or more ZCTAs with a  
22 poverty rate of twenty percent or more than the poverty rate for the entire  
23 parish. The ZCTA in which the seat of government for a parish is located shall  
24 not be included in any such district.

25 (3) Prior to the adoption of the ordinance, a notice describing the  
26 boundaries of the proposed district or containing a map showing the boundaries  
27 of the district shall be published two times in the official journal of the parish.

28 (4) Notwithstanding any other provision of law to the contrary, if the  
29 governing authority of a parish proposes to establish, by ordinance, an

1 increment financing district whose boundaries include any territory located  
2 within the corporate limits of a municipality, the governing authority of the  
3 parish shall not adopt the ordinance to create any such district without the prior  
4 written consent of the governing authority of the municipality.

5 B. Governance. (1) A district created as provided in Subsection A of this  
6 Section shall be administered and governed by a board of commissioners,  
7 hereinafter referred to as the "board". The board shall be comprised of the  
8 following members:

9 (a) One member appointed by the president or chief executive officer of  
10 the parish.

11 (b) One member appointed by the chief executive officer of the parish  
12 governing authority.

13 (c) One member of the Louisiana Senate whose district includes all or the  
14 greater portion of the area of the district.

15 (d) One member of the Louisiana House of Representatives whose  
16 district includes all or the greater portion of the area of the district.

17 (e) One member who resides in the district or owns property within the  
18 district, if that person applies for membership on the board and is approved by  
19 a majority of the other board members. Only one person appointed pursuant  
20 to this Subparagraph may be a member of the board.

21 (f) One member with economic development experience appointed by  
22 the president or chief executive officer of the parish.

23 (g) The governing authority of a parish as described in Paragraph (A)(1)  
24 may authorize which, if any, members of the board may have a designee  
25 represent them at a meeting of the board.

26 (2) A majority of the members of the board shall constitute a quorum for  
27 the transaction of business. The board shall keep minutes of all meetings and  
28 shall make them available for inspection through the board's secretary. The  
29 minute books and archives of the district shall be maintained by the board's

1 secretary. The monies, funds, and accounts of the district shall be in the official  
2 custody of the board.

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

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 and  
11 secretary, whose duties shall be provided in the bylaws adopted by the district.  
12 The board shall hold regular meetings and may hold special meetings as  
13 provided in its bylaws. All meetings shall be public meetings subject to the  
14 provisions of R.S. 42:11 et seq.

15 C. Rights and powers. In addition to the authority provided for in  
16 Subsection D of this Section, the district, acting by and through its board of  
17 commissioners, shall have and exercise all powers of a political subdivision and  
18 a special district necessary or convenient for the carrying out of its objects and  
19 purposes including but not limited to the following:

20 (1) To sue and be sued.

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

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

25 (4) For the public purposes of the district, to enter into contracts,  
26 agreements, or cooperative endeavors with the state and its political  
27 subdivisions or political corporations and with any public or private association,  
28 corporation, business entity, or individual.

29 (5) To appoint officers, agents, and employees, prescribe their duties, and

1 fix their compensation.

2 (6) To acquire by gift, grant, purchase, or lease such property as may be  
3 necessary or desirable for carrying out the objectives and purposes of the  
4 district and to mortgage and sell property. Any lease or sublease entered into  
5 by the district for the purpose, directly or indirectly, of securing or providing  
6 revenues to be used to pay the principal or interest on bonds of the district may  
7 be for a period not exceeding ninety-nine years.

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. For the purposes  
10 of this Paragraph, the district shall be deemed and considered to be an issuer  
11 for purposes of R.S. 33:9037 and shall, to the extent not in conflict with this  
12 Section, be subject to the provisions of R.S. 33:9037.

13 (8) To establish funds or accounts as are necessary for the conduct of the  
14 affairs of the district.

15 (9) To do all things reasonably necessary to accomplish the purposes of  
16 this Section.

17 (10) To designate by ordinance any territory within the district as a  
18 subdistrict which shall exercise, to the exclusion of the remainder of the district,  
19 any authority provided to the district by Subsection D of this Section or any  
20 other provision of this Section or other law.

21 D. Taxing, tax incremental financing, and bond authority. (1) To provide  
22 for the costs of an economic development project as defined in R.S. 33:9038.36  
23 within the district, the district shall have tax increment finance authority, taxing  
24 authority, and other authority that is provided to local governmental  
25 subdivisions in Part II of Chapter 27 of Title 33 of the Louisiana Revised  
26 Statutes of 1950, including but not limited to the following items:

27 (a) Ad valorem tax increment financing and bonding as provided in R.S.  
28 33:9038.33.

29 (b) Local and state sales tax increment financing and bonding as

1 provided in R.S. 33:9038.34, except that the state sales tax increment shall not  
2 exceed the greater of the aggregate portion of the local sales tax increment  
3 dedicated for the purposes of the district or the portion of the state sales tax  
4 from a tax levy of two percent.

5 (c) Cooperative endeavor authority as provided in R.S. 33:9038.35.

6 (d) Bond authority as provided in R.S. 33:9038.38.

7 (e) Ad valorem tax, sales tax, and hotel occupancy tax authority as  
8 provided in R.S. 33:9038.39.

9 (2) An economic development project within the district is deemed to be  
10 an "economic development project" within the meaning provided for in Part II  
11 of this Chapter.

12 (3) An agreement shall be entered into by the district and any affected  
13 tax recipient entity authorizing the use and dedication of the affected tax  
14 recipient entity's incremental increase in taxes. The agreement may include  
15 additional public or private entities as parties to the agreement and may include  
16 terms, conditions, and other provisions to which all parties to such agreement  
17 consent.

18 (4) Notwithstanding any provision of Part II of Chapter 27 of Title 33 of  
19 the Louisiana Revised Statutes of 1950 or any other law to the contrary, any  
20 powers, authorities, or duties granted under these laws may be restricted to a  
21 subdistrict within the district, the territory of which shall be established by  
22 ordinance of the board of commissioners of the district.

23 E. Project financing. The district may pledge any taxes collected under  
24 the authority of this Section to any economic development project in  
25 furtherance of the purposes of the district.

26 F. Any suit or action to determine or contest the validity of any  
27 cooperative endeavor, or any bonds, notes, or other forms of indebtedness of the  
28 district shall be brought and conducted only in accordance with the provisions  
29 of Part XVI of Chapter 32 of Title 13 of the Louisiana Revised Statutes of 1950,

1           as amended.

2                   **G. Exemption from taxation. The exercise of the powers and authorities**  
 3           **granted by this Section shall be in all respects for the benefit of the citizens of**  
 4           **the state and for the promotion of their welfare, convenience, and prosperity.**  
 5           **Property of the district, whether immovable, personal, tangible, or intangible,**  
 6           **and the income, earnings, and operations of the district, shall be exempt from**  
 7           **all taxation, fees or assessments, or any other similar charges, however, this**  
 8           **exemption shall terminate when the district sells, or otherwise disposes of the**  
 9           **property in the district to any purchaser or transferee which is not a public**  
 10           **body.**

11                   **H. Term. The district shall dissolve and cease to exist one year after the**  
 12           **date all bonds, notes, and other evidences of indebtedness of the district,**  
 13           **including refunding bonds, are paid in full as to both principal and interest. In**  
 14           **no event shall the district have an existence of less than three years.**

15                   **I. Liberal Construction. This Section, being necessary for the welfare of**  
 16           **the parish, districts, and its residents, shall be liberally construed to effect the**  
 17           **purposes thereof.**

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

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

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#### DIGEST

SB 237 Re-Reengrossed

2019 Regular Session

Colomb

Proposed law authorizes the creation of one or more tax increment financing districts in parishes with a population of more than 440,000 persons as established by the most recent federal decennial census in order to address the needs of areas where there is substantial and persistent unemployment, underemployment, and other forms of economic distress.

Proposed law provides that the district shall be established by ordinance, which ordinance shall designate the boundaries of the district. Prior to adoption of the ordinance, a notice of the boundaries of the district shall be advertised twice in the official journal of the parish.

Proposed law provides that in determining the boundaries of the district, the parish governing authority shall consider the U.S. Census Bureau, American Community Survey 5-year estimates, ZIP Code Tabulation Areas (ZCTA). The district may contain all or a part of one or more ZCTAs with a poverty rate at least 20% more than the poverty rate for the entire parish. Further provides that the ZCTA in which the parish seat of government is located shall not be included in any district.

Proposed law provides that if the governing authority of a parish proposes to establish a district whose boundaries include any territory located within the corporate limits of a municipality, the parish governing authority shall not adopt the ordinance creating the district without the written consent of the governing authority of the municipality.

Proposed law provides for the composition, quorum, and domicile of the board of commissioners, and for public meetings, officers, bylaws, and records.

Proposed law authorizes the governing authority of the parish to authorize which, if any, members of the board may have designees represent them at board meetings.

Proposed law provides that each district, acting by and through its board, shall exercise all powers of a political subdivision, including the right to sue and be sued; to receive gifts, grants, and donations; to enter into contracts and cooperative endeavor agreements; to appoint officers, agents, and employees; to acquire or lease property; to incur debt; and to issue bonds, notes, and other evidences of indebtedness in accordance with present law; and to do all things necessary to accomplish the purposes of proposed law.

Proposed law authorizes the board to designate subdistricts within the district and to provide relative to the authority of the subdistricts.

Proposed law provides that in order to provide for the costs of an economic development project, as defined in present law, within the district, the district shall have the tax increment finance authority, taxing authority, and other authority that is provided to local governmental subdivisions in present law, including but not limited to the following:

- (1) Ad valorem tax increment financing and bonding.
- (2) State and local sales tax increment financing and bonding, except that the sales tax increment shall not exceed the greater of the aggregate portion of the local sales tax increment dedicated for the purposes of the district or the portion of the state sales tax from a 2% tax levy.
- (3) Cooperative endeavor authority.
- (4) Bond authority.
- (5) Ad valorem tax, sales tax, and hotel occupancy tax authority.

Proposed law provides that an economic development project within the district is deemed to be an "economic development project" within the meaning provided for in present law.

Proposed law provides that an agreement entered into by the district and any affected tax recipient entity authorizing the use and dedication of the affected tax recipient entity's incremental increase in taxes may include additional public or private entities as parties to the agreement and may include terms, conditions, and other provisions to which all parties to the agreement consent.



Proposed law authorizes the district to pledge any taxes collected under the authority of proposed law to any economic development project in furtherance of the purposes of the district.

Proposed law provides that any suit or action to determine or contest the validity of any cooperative endeavor, or any bonds, notes, or other forms of indebtedness of the district shall be brought and conducted only in accordance with present law providing for bond validations.

Proposed law provides that all property of the district and the income, earnings, and operations of the district shall be exempt from all taxation, fees, assessments, and any other similar charges. Provides, however, that the exemption shall terminate when the district sells or otherwise disposes of the property in the district to any purchaser or transferee not a public body.

Proposed law provides that the district shall dissolve and cease to exist one year after the date all bonds, notes, and other evidences of indebtedness of the district, including refunding bonds, are paid in full as to both principal and interest. Provides that in no event shall the district have an existence of less than three years.

Proposed law provides that, as proposed law is necessary for the welfare of the parish, districts, and their residents, it shall be liberally construed to effect the purposes of proposed law.

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

(Adds R.S. 33:9038.72)

#### Summary of Amendments Adopted by Senate

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

1. Provides that the establishment of the district shall be by ordinance, which shall designate the boundaries of the district.
2. Provides for two publications of a notice prior to adoption of the ordinance by the parish governing authority.
3. Authorizes the governing authority of the creating parish to authorize which, if any, members of the board may have a designee at meetings.
4. Provides that projects will be economic development projects as defined in present law.
5. Clarifies that sales tax increment finances may apply to state and local sales taxes.
6. Clarifies that any subdistrict created must be located within the district boundaries.

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

1. Provides that the parish governing authority shall consider the U.S. Census Bureau, American Community Survey 5-year estimates, ZIP Code

Tabulation Areas (ZCTA) in setting the district boundaries.

2. Provides that the district may contain all or a part of one or more ZCTAs with a poverty rate of 20% or more than the poverty rate for the entire parish.
3. Provides that the ZCTA in which the parish seat of government is located shall not be included in a district.
4. Provides that the district boundaries cannot include territory within a municipality unless the governing authority of the municipality gives written consent.
5. Adds one member with economic development experience to the board, to be appointed by the chief executive officer of the parish.
6. Provides that the sales tax increment shall not exceed the greater of the aggregate portion of the local sales tax increment dedicated for the purposes of the district or the portion of the state sales tax from a 2% tax levy.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to reengrossed bill

1. Makes technical changes.