

Regular Session, 2014

SENATE BILL NO. 638

BY SENATOR WHITE

TAX/LOCAL. Provides relative to St. George incorporation; creates the St. George Transition District; and provides for the interim continuation of services and interim collection of certain sales taxes. (gov sig)

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AN ACT

To enact R.S. 33:382.1(H) and Part IX-A of Chapter 6 of Title 33 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 33:3076.1 through 3076.5, relative to government within East Baton Rouge Parish; to provide for the continued collection of tax revenue to fund essential public services within the city of St. George; to authorize the parish to continue collection of a previously approved two percent sales and use tax and to continue providing essential public services within the corporate limits of the city of St. George pursuant to intergovernmental agreement; to create a St. George Transition District as a taxing district to provide monies for essential public services within the municipality; to provide for the board of directors of the district; to provide for the duties, powers, and responsibilities of the district; to authorize the district to levy and collect a sales and use tax not to exceed two percent; to provide time limits for the continuation of such taxes; to authorize contracts, intergovernmental agreements, and cooperative endeavors; to provide for the number of aldermen in the city; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 33:382.1(H) and Part IX-A of Chapter 6 of Title 33 of the Louisiana
2 Revised Statutes of 1950, comprised of R.S. 33:3076.1 through 3076.5, are hereby enacted
3 to read as follows:

4 §382.1. Number of aldermen; election; municipal districts; divisions of the board

5 * * *

6 **H. Notwithstanding Subsection A of this Section, the number of**
7 **aldermen for the city of St. George shall be seven, elected at large, unless**
8 **changed by the board of aldermen by ordinance to another number not less**
9 **than five nor more than nine members.**

10 * * *

11 **PART IX-A. CITY OF ST. GEORGE - TRANSITION DISTRICT**

12 **§3076.1. Legislative findings; purpose**

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

26 **§3076.2. Definitions**

27 **Whenever used in this Part, unless a different meaning clearly appears**
28 **in the context, the following terms, whether used in the singular or plural, shall**
29 **be given the following interpretations:**

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

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

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

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

9 **(5) "Municipal tax" means the two percent sales and use tax levied by**
10 **the city of St. George as provided in R.S. 33:3076.4(D)(5).**

11 **(6) "Parish" means East Baton Rouge Parish.**

12 **(7) "Parish tax" means the two percent sales and use tax levied in the**
13 **unincorporated areas of East Baton Rouge Parish.**

14 **§3076.3. Continued levy of tax by East Baton Rouge Parish**

15 **Notwithstanding any law to the contrary, upon incorporation of St.**
16 **George, the parish may continue to levy and collect the parish tax within the**
17 **corporate limits of the municipality, pursuant to an intergovernmental**
18 **agreement between the parish and municipality, for the purposes of providing**
19 **continuing, through calendar year 2018, pro-rata funding of parish expenses for**
20 **constitutional public offices and officials required by law and providing**
21 **essential public services to, or funding essential public services for, the citizens**
22 **within St. George until the St. George Transition District levies and collects a**
23 **two percent sales and use tax, the municipality levies and collects a two percent**
24 **sales and use tax, the end of the quarter following the election to impose the**
25 **municipal tax if the proposition is not approved by the electorate, or twelve**
26 **months after the incorporation becomes final, whichever occurs first.**

27 **§3076.4. St. George Transition District; sales tax**

28 **A. In furtherance of the purposes of this Part, the St. George Transition**
29 **District is hereby created as a special taxing district whose boundaries are**

1 coterminous with the municipality, and it shall be a body politic and corporate
2 and a political subdivision of the state with all of the powers of a political
3 subdivision and with such further powers and functions as are set forth in this
4 Section. It is hereby determined that the creation of the district and the carrying
5 out of its public purpose is in all respects a public and governmental purpose for
6 the improvement of the health, safety, welfare, comfort, and security of the
7 people of the municipality, and that such purposes are public purposes, and that
8 the district will be performing an essential governmental function and meeting
9 a public obligation in the exercise of the powers conferred upon it by this
10 Section.

11 B.(1) The district shall be administered and governed by a board of
12 directors of seven persons composed of:

13 (a) The mayor-president or his designee.

14 (b) One member appointed by the senator representing Senate District
15 No. 6.

16 (c) One member appointed by the senator representing Senate District
17 No. 16.

18 (d) Two members appointed by a majority of the members of the House
19 of Representatives representing the district.

20 (e) Two of the chairpersons for the petition for incorporation of St.
21 George, as determined by the three chairpersons for the petition, or their
22 designees.

23 (2) The appointed members shall be selected on the basis of their
24 experience in financial matters and their stature and ability to act effectively for
25 the best interests of the municipality.

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

29 (4) A majority of the directors shall constitute a quorum, and a majority

1 vote of the directors constituting the quorum shall be necessary for any action
2 taken by the district. No vacancy on the board shall impair the right of a
3 quorum to exercise all of the rights and perform all of the duties of the district.

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

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

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

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

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

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

19 (4) To sue and be sued.

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

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

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

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

29 (9) To employ such personnel as may be required in the judgment of the

1 board and to fix and pay their compensation from funds available to the district
2 therefor.

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

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

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

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

15 (14) 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, and to
21 provide, though calendar year 2018, continuing pro-rata funding of parish
22 expense for constitutional public offices and officials required by law, the
23 district is hereby authorized to levy and collect a sales and use tax not to exceed
24 two percent. However, the district shall not levy or collect a tax if the rate
25 thereof, when combined with the rate of the municipal sales and use taxes
26 collected within the municipality, exceeds two percent.

27 (2) The tax shall be imposed by the district without the need of an
28 election and shall be levied upon the sale at retail, the use, the lease or rental,
29 the distribution, the consumption, and the storage for use or consumption of

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

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

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

17 (5) The provisions of this Section shall be null, void, and without effect,
18 the district shall cease existence, and any sales and use taxes levied by the
19 district shall expire at such time as the municipality levies and collects a two
20 percent sales and use tax or twelve months after the judgments in any suits
21 contesting the incorporation of the municipality become final, whichever occurs
22 first.

23 §3076.5. Liberal construction

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

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

White (SB 638)

Proposed law provides that upon incorporation of St. George (municipality), East Baton Rouge Parish (parish) may continue to levy and collect the two percent sales and use tax levied in the unincorporated areas of the parish (parish tax) within the corporate limits of the municipality, pursuant to an intergovernmental agreement between the parish and municipality, for the purposes of providing continuing, through 2018, pro-rata funding of parish expenses for constitutional public offices and officials required by law and providing essential public services to, or funding essential public services for, the citizens within St. George until the St. George Transition District (district) levies and collects a two percent sales and use tax, the municipality levies and collects a two percent sales and use tax, the end of the quarter following the election to impose the municipal tax if the proposition is not approved by the electorate, or 12 months after the incorporation becomes final, whichever occurs first.

Creates the St. George Transition District as a special taxing district whose boundaries are coterminous with the municipality, as a political subdivision of the state with all of the powers and functions set forth in proposed law. Provides that the creation of the district and the carrying out of its public purpose is in all respects a public and governmental purpose for the improvement of the health, safety, welfare, comfort, and security of the people of the municipality, and 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 its powers.

Provides that the district shall be administered and governed by a board of directors of seven persons composed of:

- (1) The mayor-president or his designee.
- (2) One member appointed by the senator representing Senate District No. 6.
- (3) One member appointed by the senator representing Senate District No. 16.
- (4) Two members appointed by a majority of the members of the House of Representatives representing the district.
- (5) Two chairpersons for the petition for incorporation of St. George, as determined by the three chairpersons for the petition, or their designees.

Provides that the appointed members shall be selected on the basis of their experience in financial matters and their stature and ability to act effectively for the best interests of the municipality.

Requires that the board elect one of its members as chairman and another as treasurer. Provides that the board shall appoint a secretary and such other officers as are deemed necessary who need not be directors of the district.

Provides that a majority of the directors shall constitute a quorum, and a majority vote of the directors constituting the quorum shall be necessary for any action taken by the district.

Further no vacancy on the board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the district.

Requires that the board fix the place or places at which meetings shall be held and that the domicile of the district be within the parish.

Provides that the board members shall serve without salary or per diem allowance.

Provides that the district shall have all of the rights and powers necessary to carry out and effectuate the proposed law. Provides that the district shall be subject to the laws pertaining to open meetings, public records, official journals, dual office holding and employment, and the Code of Governmental Ethics.

Authorizes the district:

- (1) To adopt bylaws and prescribe rules for the regulation of its affairs and the conduct of its business.
- (2) To adopt an official seal and alter the same at its pleasure.
- (3) To maintain an office within the parish at such place as it may designate.
- (4) To sue and be sued.
- (5) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money.
- (6) To apply and contract for assistance from the United States or other public or private sources, whether in the form of a grant or loan or otherwise.
- (7) To make and execute contracts, intergovernmental agreements, and other instruments necessary in the exercise of the powers and functions of the district under proposed law, including contracts with persons, firms, corporations, and others.
- (8) To pledge or assign any contracts or rights of the district.
- (9) To employ such personnel as may be required in the judgment of the board and to fix and pay their compensation from funds available to the district therefor.
- (10) To transfer, grant, or donate all or any portion of its revenues to the municipality in order to assist the municipality in funding the delivery of essential public services to its citizens, reducing or eliminating its cash flow deficits or remedying cash flow shortfalls, paying obligations in connection therewith, or any combination of these.
- (11) To accept the mortgage, pledge, hypothecation, assignment, grant, or donation of any properties of the municipality.
- (12) To invest its monies in accordance with R.S. 33:2955.
- (13) 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.
- (14) To exercise any and all other powers necessary to accomplish the purposes set forth in proposed law.

Provides that in order to provide funds for the purpose of assisting the municipality to fund

the delivery of essential public services to its citizens, reduce or eliminate its cash flow deficit or remedy cash flow shortfalls, pay obligations in connection therewith, or any combination of these, and to provide, though 2018, continuing pro-rata funding of parish expense for constitutional public offices and officials required by law, the district may levy and collect a sales and use tax not to exceed two percent. However, the district shall not levy or collect a tax if the rate thereof, when combined with the rate of the municipal sales and use taxes collected within the municipality, exceeds two percent.

Requires that the tax be imposed by the district, without the need of an election, and be levied upon the sale at retail, the use, the lease or rental, the distribution, the consumption, and the storage for use or consumption of tangible personal property, and on sales of services in the state, as presently defined in and as provided by present law, subject to the tax exemptions provided in present law. Provides that the levy of the tax shall be effective and the tax shall be payable beginning on such date as shall be provided by the district.

Requires that the proceeds of the tax be irrevocably pledged and dedicated and be transferred in such amounts as may be determined by the district to assist the municipality in funding the delivery of essential public services to its citizens, reducing or eliminating its cash flow deficit, remedying cash flow shortfalls, paying obligations in connection therewith, or any combination of these.

Requires that the district contract with the parish for the collection of the tax under such terms and conditions as the board may deem appropriate, and authorizes the board to adopt such rules and regulations regarding the enforcement and collection of the tax authorized by proposed law as it may deem appropriate.

Provides that proposed law creating and providing for the district and district tax shall be null, void, and without effect, the district shall cease existence, and any sales and use taxes levied by the district shall expire at such time as the municipality levies and collects a two percent sales and use tax or 12 months after the judgments in any suits contesting the incorporation of the municipality become final, whichever occurs first.

Provides that proposed law does and shall be construed to provide a complete method for the doing of the things authorized by proposed law, which shall be liberally construed for the accomplishment of its purposes.

Present law, relative to Lawrason Act municipalities, provides that the number of aldermen in a city shall be not less than five nor more than nine.

Proposed law provides that the number of aldermen for the city shall be seven, elected at large, unless changed by the board of aldermen by ordinance to another number not less than five nor more than nine members.

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

(Adds R.S. 33:382.1(H) and 3076.1-3076.5)