

RÉSUMÉ DIGEST

SB 229

2019 Regular Session

Claitor

Proposed law, relative to the city of St. George in East Baton Rouge Parish, would provide for transition following incorporation, as follows:

- (1) Would provide legislative findings and determinations that in the event of incorporation of the city of St. George a state of emergency will exist until cash flow can be developed through the levy and collection of municipal sales and use taxes to fund the expenses of municipal government and that it is essential and necessary to authorize the continuation of current sales and use taxes levied by the parish and the provision of services by the parish within the incorporated area and to create a financial assistance district and provide a source of revenue for it so it may engage in cooperative endeavors, contract for the provision of essential public services, and raise revenue to assist the municipality in funding essential public services and preventing cash flow difficulties.
- (2) Would define terms for purposes of proposed law:
 - (a) Board - the board of directors of the district or any successor thereto.
 - (b) District - the city of St. George Transition District or any successor thereto.
 - (c) Mayor-president - the mayor-president of the city of Baton Rouge and parish of East Baton Rouge.
 - (d) Municipality - city of St. George in East Baton Rouge Parish.
 - (e) Municipal tax - the 2% sales and use tax levied by the city of St. George.
 - (f) Parish - East Baton Rouge Parish.
 - (g) Parish tax - the 2% sales and use tax levied by the city of St. George.
- (3) Upon incorporation of the city of St. George, would authorize the parish to continue to levy and collect the parish tax within the city of St. George pursuant to an intergovernmental agreement between the parish and municipality for the purpose of providing or funding essential public services until the earliest of the following occurs:
 - (a) The city of St. George Transition District levies and collects a 2% sales and use tax; or
 - (b) The municipality levies and collects a 2% sales and use tax; or
 - (c) The end of the quarter following the election to impose the municipal tax, if the voters do not approve the proposition; or
 - (d) 12 months after the incorporation of the city of St. George becomes final.
- (4) Would create the city of St. George Transition District as a special taxing district with boundaries coterminous with the municipality. Would provide that the district is a body politic and corporate and a political subdivision of the state with all of the powers of a political subdivision. Would provide that the legislature determines that the creation of the district and the carrying out of its public purpose is a public and governmental purpose for the improvement of the health, safety, welfare, comfort, and security of the people of the municipality, 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 the powers conferred upon it by proposed law.

Would provide that the district shall be administered and governed by a five-member board of directors:

- (a) The mayor-president or his designee who shall be a registered voter and living in the district.
- (b) One member, who shall be a registered voter and living in the district, appointed by the senator representing Senate District No. 16.
- (c) One member, who shall be a registered voter and living in the district, appointed by the House member representing House District No. 66.
- (d) The chairpersons for the incorporation petition for the city of St. George or their designees.

Would require that the appointed members be selected on the basis of experience in management, knowledge, and ability to act effectively for the best interests of the municipality.

Would require the board to elect one member as chairman and another as treasurer and to appoint a secretary and such other officers as it deems necessary who need not be board members.

Would provide that a majority of the members constitutes a quorum and requires a majority vote of the quorum to take action. Would provide that a vacancy shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the district. Would require that the district's domicile be in the parish.

Would provide that members serve without salary or per diem.

- (5) Would grant the district all of the rights and powers necessary to carry out and effectuate the purposes and provisions of proposed law. Would provide that the district is subject to the laws pertaining to open meetings, public records, official journals, dual office holding and employment, and the Code of Governmental Ethics.

Would specifically grant the district certain rights and powers, including:

- (a) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money.
- (b) To apply and contract for assistance from public or private sources.
- (c) To make and execute contracts, intergovernmental agreements, and other instruments necessary in the exercise of its powers and functions.
- (d) To pledge or assign any contracts or rights of the district.
- (e) To employ personnel the board deems to be required and to fix and pay their compensation from funds available therefor.
- (f) To transfer, grant, or donate all or any portion of its revenues to the municipality to assist in funding essential public services, reducing or eliminating its cash flow deficits or remedying cash flow shortfalls, paying obligations in connection therewith, or any combination of these.
- (g) To accept the mortgage, pledge, hypothecation, assignment, grant, or donation of any properties of the municipality.
- (h) To invest its monies in accordance with present law (R.S. 33:2955) relative to investments by political subdivisions.
- (i) 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.
- (j) To incur debt.

- (k) To exercise any and all other powers necessary to accomplish the purposes of proposed law.
- (6) Would authorize the district to levy and collect a 2% sales tax to provide funds to assist the municipality to fund essential public services, reduce or eliminate its cash flow deficit or remedy cash flow shortfalls, pay obligations in connection therewith, or any combination of these. Would prohibit such levy if the rate of such tax, when combined with the rate of the municipal sales and use taxes collected within the municipality, exceeds 2%.
- Would provide for levy of the tax by district ordinance without the need for an election, in accordance with present law relative to sales taxes. Would provide that the tax levy shall be effective and the tax shall be payable beginning on such date as provided by the district.
- Would require that tax proceeds are irrevocably pledged and dedicated and shall be transferred in such amounts as may be determined by the district to assist the municipality in funding essential public services, reducing or eliminating its cash flow deficit, remedying cash flow shortfalls, paying obligations in connection therewith, or any combination of these. Would require the district to contract with the parish for tax collection and authorizes board rules regarding enforcement and collection of the tax.
- Would provide that proposed law relative to the city of St. George Transition District and its powers and duties shall be void, that the district shall cease existence, and that any sales tax levied by the district shall expire when the earliest of the following occurs: (a) the municipality levies and collects a 2% sales tax; (b) the end of the quarter following the election to impose the municipal tax, if the proposition is not approved by the electorate; or (c) 12 months after the incorporation becomes final.
- (7) Would provide for the district and the proposed municipality created to be liable for its proportionate share of the parish's outstanding debt secured by the parish taxes incurred before the date of incorporation and its proportionate share of all unfunded liabilities of the parish, including pension plans incurred before the date of incorporation and other post employment plans.
- (a) Would provide the proposed law will not apply to debt secured by parish taxes that relates to immovable property not located within the municipality or to debt secured by parish taxes that relates to moveable property not transferred to the municipality.
- (b) Would provide the proposed law will not apply to unfunded liabilities associated with employees and retirees who did not provide services to the area of the parish included in the municipality.
- (c) Would provide that, notwithstanding any other provision of law to the contrary, the municipality will not pay more in any year than the percentage of the proportionate share of the unfunded liabilities paid by the parish in the same year.
- (d) Would provide that all funds remitted to the parish by the municipality pursuant to proposed law related to the municipality's proportionate share of bonded indebtedness will be used by the parish for only the retirement of bonded indebtedness. All funds remitted to the parish by the municipality pursuant to proposed law related to the municipality's proportionate share of unfunded liabilities will be used by the parish for only the retirement of the unfunded liabilities. No funds remitted to the parish pursuant to proposed law will be used for any other purpose.
- (8) Would provide for an exception that the parish will no longer be responsible for providing any municipal services as provided by law, unless agreed through a cooperative endeavor agreement or memorandum of understanding or other agreement.

- (9) Would provide that no payments to the parish will be required until the final incorporation of the municipality, or if contested pursuant to R.S. 33:3(D), until the judgment is final.
- (10) Would provide that proposed law is to be construed to provide a complete method for the doing of the things it authorizes and that its provisions shall be liberally construed for the accomplishment of its purposes.

Would have become effective upon signature of the governor or lapse of time for gubernatorial action.

(Would have added R.S. 33:3121-3125)

VETO MESSAGE: "Please be advised that I have vetoed Senate Bill 229 of the 2019 Regular Session.

This bill, as originally drafted, created a transition structure should the voters approve of the incorporation of the City of St. George in the election that I called for October 12th. While it is arguable that this legislation is unnecessary at this point in time and presupposes a result of an election that has yet to take place, the original bill was silent as it related to the future obligations of any new government in St. George for outstanding debt secured by parish taxes. Through a negotiated agreement, the bill was amended without objection in Senate committee to provide for payment of existing debt in proportionate share. However, the bill was amended on the Senate floor to limit the responsibility of St. George for liabilities and other bonded indebtedness for services that have been provided to the residents of the St. George area for decades.

Many in the Baton Rouge community have expressed grave concerns about the finally passed version of this bill, including Mayor Broome and Baton Rouge Area Chamber. They agree with me that if the voters do approve of a newly incorporated City of St. George, there should be a thoughtful, fair, and equitable transition process. This transition structure can be set up at that time through a cooperative endeavor agreement between the parish and the municipality. However, that structure should ensure, as proposed in the engrossed bill this year, that "the proposed municipality created shall be liable for its proportionate share of the parish's outstanding debt secured by parish taxes and its proportionate share of unfunded liabilities of the parish, including pension plans and other post-employment plans." This will ensure that, should the voters approve of the incorporation, St. George, like any other municipality in the state, pays the bill for the services its residents have received and does not leave those obligations with those outside of its boundaries."