

2020 Regular Session

SENATE BILL NO. 368

BY SENATOR FIELDS

ECONOMIC DEVELOPMENT. Authorizes the creation of cooperative economic development districts affiliated with certain Louisiana public postsecondary education institutions. (gov sig)

1 AN ACT

2 To enact R.S. 33:9038.72, relative to cooperative economic development in and around
3 public postsecondary education institutions in certain parishes; to authorize certain
4 parish and municipal governing authorities to create special taxing districts for such
5 purposes; to provide for the governance and powers and duties of such a district,
6 including the authority to levy taxes and special assessments; to authorize such a
7 district to incur debt and to pledge tax increments to repayment thereof; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

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

11 **§9038.72. College economic development districts**

12 **A.(1) The governing authority of a local governmental subdivision in a**
13 **parish with a population of more than four hundred thirty-six thousand and less**
14 **than five hundred thousand, according to the the latest federal decennial census,**
15 **in which a public postsecondary education institution, hereafter in this Section**
16 **referred to as a "college," is located may create an economic development**
17 **district that includes property owned by the institution to provide for**

1 cooperative economic and community development among the district, the
2 college, the local governmental subdivision, the state, and the owners of
3 property in the district. Hereafter in this Section, the terms "college economic
4 development district" or "district" refer to a district created pursuant to this
5 Section. Any college economic development district is a political subdivision of
6 the state having all of the rights, powers, privileges, and immunities accorded
7 by law and the Constitution of Louisiana to political subdivisions of the state,
8 subject to the limitations provided in this Section. The governing authority of
9 the local governmental subdivision shall establish the boundaries of a district
10 in the ordinance creating it, which boundaries are not required to be
11 contiguous.

12 (2) For purposes of this Section "local governmental subdivision" means
13 a parish or municipality.

14 (3) Notwithstanding the authority granted by this Section, a municipal
15 governing authority shall not create a district that includes unincorporated
16 areas of a parish without the written consent of the parish governing authority,
17 and a parish governing authority shall not create a district that includes areas
18 in a municipality without written consent of the municipal governing authority.

19 B.(1) A college economic development district shall be administered and
20 governed by a board of commissioners, referred to in this Section as the
21 "board".

22 (2) The board shall be comprised as follows:

23 (a) The highest executive officer of the college shall appoint four persons.

24 (b) The member of the governing authority of the local governmental
25 subdivision whose district includes the official physical address of the college
26 shall appoint one person.

27 (c) The member of the Louisiana House of Representatives whose district
28 includes the official physical address of the college shall appoint one person.

29 (d) The member of the Louisiana Senate whose district includes the

1 official physical address of the college shall appoint one person.

2 (3) Members shall serve five-year terms after initial terms as provided
3 by the ordinance creating the district. Each member of the board shall continue
4 to serve until reappointed or a successor is duly appointed. Any vacancy in the
5 membership of the board shall be filled in the manner of the original
6 appointment for the unexpired term. If an appointment to fill a vacancy is not
7 made within sixty days, the board shall appoint an interim successor to serve
8 until the position is filled by the appointing authority.

9 (4) Any member of the board may be removed by a three-fourths vote
10 of the remaining membership of the board for cause, which cause may include
11 failure to attend at least one-half of the meetings of the board in a two-year
12 period.

13 (5) The members of the board shall serve without salary or per diem.
14 The board may reimburse any member for reasonable, actual, and necessary
15 expenses incurred in the performance of his duties pursuant to this Section.

16 (6) The board shall elect from its members a president, a vice president,
17 a secretary, and a treasurer, whose duties shall be those common to such offices.
18 At the option of the board, the offices of secretary and treasurer may be held by
19 one person.

20 (7) The board shall meet in regular session at least once a year and shall
21 also meet in special session as often as the president of the board convenes the
22 board or upon the written request of at least three members. A majority of the
23 members of the board shall constitute a quorum for the transaction of business.
24 The board shall keep minutes of all meetings and shall make them available for
25 inspection through the board's secretary or secretary-treasurer, who shall also
26 maintain the minute books and archives of the district. The monies, funds, and
27 accounts of the district shall be in the official custody of the board.

28 (8) The domicile of the board shall be established by the board at a
29 location within the district. The official journal of the district is the official

1 journal of the parish where the domicile of the board is located.

2 C. A college economic development district, acting by and through its
3 board, shall have and exercise all powers of a political subdivision necessary or
4 convenient for the carrying out of its objects and purposes, including but not
5 limited to the following:

6 (1) To sue and to be sued.

7 (2) To adopt, use, and alter at will a corporate seal.

8 (3) To acquire by gift, grant, or purchase all property, including rights
9 of way, movable, immovable, or mixed, corporeal or incorporeal, or any interest
10 therein.

11 (4) To enter into contracts for the purchase, acquisition, construction,
12 and improvement of works and facilities necessary in connection with the
13 purposes of the district.

14 (5) In its own name and on its own behalf to incur debt and to issue
15 revenue bonds, special assessment bonds, certificates, notes, and other evidences
16 of indebtedness and to levy and cause to be collected certain taxes as provided
17 in this Section and as may be provided by general law.

18 (6) To regulate the imposition of fees and rentals charged by the district
19 for its facilities and services rendered by it.

20 (7) To borrow money and pledge all or part of its revenues, leases, rents,
21 or other advantages as security for such loans.

22 (8) To appoint officers, agents, and employees, prescribe their duties, and
23 fix their compensation.

24 (9) To develop public improvement projects for the benefit of the
25 respective college, either directly with the respective college or through one or
26 more private foundations or nonprofit corporations affiliated with the
27 respective college, or both.

28 (10) To exercise any and all of the powers granted to an economic
29 development district as if the district were an economic development district

1 established pursuant to Part II of this Chapter, including but not limited to the
2 powers of tax increment financing pursuant to R.S. 33:9038.33 and 33:9038.34
3 and the power to levy taxes within the district pursuant to R.S. 33:9038.39. The
4 district shall exercise such powers in accordance with the provisions of Part II
5 of this Chapter.

6 (11) To exercise any and all of the powers granted to a community
7 development district as if the district were a community development district
8 established pursuant to Chapter 27-B of this Title, including but not limited to
9 the power to levy special assessments on property within the district pursuant
10 to R.S. 33:9039.29. The district shall exercise such powers in accordance with
11 the provisions of Chapter 27-B of this Title.

12 D.(1) It is expressly provided that any sales and use tax levied by a
13 college economic development district or any subdistrict created by the district
14 may exceed the limitation set forth by Article VI, Section 29(A) of the
15 Constitution of Louisiana and shall be imposed, collected, and enforced subject
16 to the terms of the resolution imposing the tax and the provisions of Chapter 2
17 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

18 (2)(a) A college economic development district and any subdistrict
19 created by the district may levy taxes or assessments of any type only after the
20 board has adopted an appropriate resolution giving notice of its intention to
21 levy such taxes or assessments. The resolution shall include a general
22 description of the taxes or assessments to be levied. The district or subdistrict
23 shall give notice of its intention by publication once a week for two weeks in the
24 official journal of the district, the first publication to appear at least fourteen
25 days before the public meeting of the board at which the board shall hear any
26 objections to the proposed taxes or assessments. The notice of intent so
27 published shall state the date, time, and place of the public hearing.

28 (b) Such taxes or assessments may be levied only after the board has
29 called a special election submitting the proposition for the levy of such taxes or

1 assessments to the qualified electors of the district or subdistrict, as applicable,
2 and the proposition has received the favorable vote of a majority of the electors
3 voting in the election. However, if there are no qualified electors in the district
4 or subdistrict, as applicable, as certified by the registrar of voters, no such
5 election is required, but the taxes or assessments shall not be levied unless
6 approved by the governing authority of the local governmental subdivision.

7 (c) The powers and rights conferred by this Paragraph shall be in
8 addition to the powers and rights conferred by any other general or special law.
9 This Paragraph does and shall be construed to provide a complete and
10 additional method for the levy of any taxes or assessments. No election,
11 proceeding, notice, or approval shall be required for the levy of such taxes or
12 assessments except as provided in this Paragraph.

13 E.(1) A college economic development district may create subdistricts as
14 provided in this Subsection. The district shall publish notice of its intent to
15 create a subdistrict in the official journal of the district. At least ten days after
16 publication of such notice, the board shall conduct a public hearing on the
17 question of creating the subdistrict. Thereafter, the board may designate one or
18 more areas within the boundaries of the district as subdistricts of the district.
19 Each subdistrict shall constitute a political subdivision of the state and shall be
20 governed by the board. Each subdistrict shall have the same powers as the
21 district and shall be given a suitable name as the board may designate.
22 Hereafter in this Section, any reference to the district includes any subdistrict
23 created by the district.

24 (2) The boundaries of a district may be changed in accordance with
25 provisions of this Section dealing with the establishment of the original
26 boundaries. If a district is expanded to include an area where qualified electors
27 reside, no tax shall be collected in the added area unless the qualified electors
28 of that added area approve the tax in accordance with Subparagraph (D)(2)(b)
29 of this Section.

1 F.(1) The district may issue and sell from time to time bonds, notes,
2 renewal notes, refunding bonds, interim certificates, certificates of indebtedness,
3 certificates of participation, debentures, warrants, commercial paper, or other
4 obligations or evidences of indebtedness to provide funds for and to fulfill and
5 achieve its public purpose or corporate purposes, as set forth in this Section,
6 including but not limited to the payment of all or a portion of the costs of a
7 project, to provide amounts necessary for any corporate purposes, including
8 necessary and incidental expenses in connection with the issuance of the
9 obligations, the payment of principal and interest on the obligations of the
10 district, the establishment of reserves to secure such obligations, and all other
11 purposes and expenditures of the district incident to and necessary or
12 convenient to carry out its public functions or corporate purposes, and any
13 credit enhancement for said obligations.

14 (2) Except as may otherwise be provided by the board, all obligations
15 issued by the district shall be negotiable instruments and payable solely from
16 the revenues of the district as determined by the board, or from any other
17 source that may be available to the district but shall not be secured by the full
18 faith and credit of the state or the local governmental subdivision.

19 (3) Obligations shall be authorized, issued, and sold by a resolution or
20 resolutions of the board. Such bonds or obligations may be of such series, bear
21 such date or dates, mature at such time or times, bear interest at such rate or
22 rates, including variable, adjustable, or zero interest rates, be payable at such
23 time or times, be in such denominations, be sold at such price or prices, at
24 public or private negotiated sale, after advertisement as is provided for in R.S.
25 39:1426, be in such form, carry such registration and exchangeability privileges,
26 be payable at such place or places, be subject to such terms of redemption, and
27 be entitled to such priorities on the income, revenue, and receipts of, or
28 available to, the district as may be provided by the board in the resolution or
29 resolutions providing for the issuance and sale of the bonds or obligations of the

1 district.

2 (4) The obligations of the district shall be signed by such officers of the
3 board by either manual or facsimile signatures as shall be determined by
4 resolution or resolutions of the board and may have impressed or imprinted
5 thereon the seal of the district or a facsimile thereof.

6 (5) Any obligations of the district may be validly issued, sold, and
7 delivered, notwithstanding that one or more of the officers of the board signing
8 such obligations, or whose facsimile signature or signatures may be on the
9 obligations, shall have ceased to be such officer of the board at the time such
10 obligations shall actually have been delivered.

11 (6) Obligations of the district may be sold in such manner and from time
12 to time as may be determined by the board to be most beneficial, subject to
13 approval of the State Bond Commission, and the district may pay all expenses,
14 premiums, fees, or commissions which it may deem necessary or advantageous
15 in connection with the issuance and sale thereof.

16 (7) The board may authorize the establishment of a fund or funds for the
17 creation of a debt service reserve, a renewal and replacement reserve, or such
18 other funds or reserves as the board may approve with respect to the financing
19 and operation of any project funded with the proceeds of such bonds and as
20 may be authorized by any bond resolution, trust agreement, indenture of trust
21 or similar instrument or agreement pursuant to the provisions of which the
22 issuance of bonds or other obligations of the district or subdistrict may be
23 authorized.

24 (8) Any cost, obligation, or expense incurred for any of the purposes or
25 powers of the district specified in this Subsection shall be a part of the project
26 costs and may be paid or reimbursed as such out of the proceeds of bonds or
27 other obligations issued by the district; however, no portion of any state sales
28 taxes made directly available to the district pursuant to an agreement with the
29 state shall be used by the district to pay the costs of constructing or operating

1 any privately owned hotel located within the district, without the consent of the
2 Joint Legislative Committee on the Budget or its successor.

3 (9) For a period of thirty days from the date of publication of the
4 resolution authorizing the issuance of bonds hereunder, any persons in interest
5 shall have the right to contest the legality of the resolution and the legality of the
6 bond issue for any cause, after which time no one shall have any cause or right
7 of action to contest the legality of said resolution or of the bonds authorized
8 thereby for any cause whatsoever. If no suit, action, or proceeding is begun
9 contesting the validity of the bond issue within thirty days, the authority to issue
10 the bonds and to provide for the payment thereof, and the legality thereof and
11 all of the provisions of the resolution authorizing the issuance of the bonds shall
12 be conclusively presumed, and no court shall have authority to inquire into such
13 matters.

14 (10) Neither the members of the board nor any person executing the
15 bonds shall be personally liable for the bonds or be subject to any personal
16 liability by reason of the issuance thereof. No earnings or assets of the district
17 shall accrue to the benefit of any private persons. However, the limitation of
18 liability provided for in this Paragraph shall not apply to any gross negligence
19 or criminal negligence on the part of any member of the board or person
20 executing the bonds.

21 (11) All obligations authorized to be issued by the district pursuant to the
22 provisions of this Subsection, together with interest thereof, income therefrom,
23 and gain upon the sale thereof shall be exempt from all state and local taxes.

24 (12) The state and all public officers, any parish, municipality, or other
25 subdivision or instrumentality of the state, any political subdivision, any bank,
26 banker, trust company, savings bank and institution, building and loan
27 association, savings and loan association, investment company or any person
28 carrying on a banking or investment business, any insurance company or
29 business, insurance association, and any person carrying on an insurance

1 business, and any executor, administrator, curator, trustee, and other fiduciary,
2 and any retirement system or pension fund may legally invest any sinking funds
3 monies, or other funds belonging to them or within their control in any bonds
4 or other obligations issued by the district pursuant to the provisions of this
5 Subsection, and such bonds or other obligations shall be authorized security for
6 all public deposits. It is the purpose of this Section to authorize such persons,
7 firms, corporations, associations, political subdivisions and officers, or other
8 entities, public or private, to use any funds owned or controlled by them,
9 including but not limited to sinking, insurance, investment, retirement,
10 compensation, pension and trust funds, and funds held on deposit, for the
11 purchase of any such bonds or other obligations of the district or subdistrict,
12 and that any such bonds shall be authorized security for all public deposits.
13 However, nothing contained in this Section with regard to legal investments or
14 security for public deposits shall be construed as relieving any such person,
15 firm, corporation, or other entity from any duty of exercising reasonable care
16 in selecting securities.

17 G. A college economic development district shall dissolve and cease to
18 exist upon the later to occur of either one year after the date on which all loans,
19 bonds, notes, and other evidences of indebtedness of the district, including
20 refunding bonds, are paid in full as to both principal and interest, or fifty years
21 from the creation of the district.

22 H. This Section, being necessary for the welfare of the state, the parish,
23 and its residents, shall be liberally construed to effect the purposes thereof.

24 Section 2. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 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 James Benton.

DIGEST

SB 368 Original 2020 Regular Session Fields

Proposed law authorizes the governing authority of a parish or municipality population of more than 436,000 and less than 500,000, in which a public postsecondary education institution, a "college", is located to create an economic development district that includes property owned by the college. The purpose of such a district is to provide for cooperative economic and community development among the district, the college, the parish or municipal governing authority, the state, and the owners of property in the district. The parish or municipal governing authority shall establish the boundaries of a district in the ordinance creating it; such boundaries may be changed and are not required to be contiguous.

Proposed law prohibits a municipal governing authority from creating a district that includes unincorporated areas of a parish without the written consent of the parish governing authority, and prohibits a parish governing authority from creating a district that includes areas in a municipality without written consent of the municipal governing authority.

Proposed law provides that such a district is governed by a board of commissioners, comprised as follows:

- (1) The highest executive officer of the college appoints four persons.
- (2) The member of the parish or municipal governing authority whose district includes the official physical address of the college appoints one person.
- (3) The member of the La. House of Representatives whose district includes the official physical address of the college appoints one person.
- (4) The member of the La. Senate whose district includes the official physical address of the college appoints one person.

Proposed law provides that commissioners serve five-year terms, with vacancies filled in the manner of the original appointment. However, if an appointment to fill a vacancy is not made within 60 days, the board shall appoint an interim successor to serve until the position is filled by the appointing authority. Authorizes removal of a commissioner for cause by a 3/4 vote of the board. Provides that commissioners serve without compensation but authorizes reimbursement of expenses.

Proposed law provides that the official journal of such a district is the official journal of the parish where the domicile of the board is located. Provides that a district created pursuant to proposed law is a political subdivision of the state and has the powers of a political subdivision. Provides that such powers include the power:

- (1) To develop public improvement projects for the benefit of the respective college, either directly with the respective college or through one or more private foundations or nonprofit corporations affiliated with the respective college, or both.
- (2) To exercise the powers granted to an economic development district established pursuant to present law. (Present law authorizes such a district to utilize tax increment financing. Further authorizes a district to levy ad valorem taxes up to five mills, sales taxes up to 2%, and hotel occupancy taxes up to 2%, all subject to voter approval unless there are no voters in the district.)

- (3) To exercise the powers granted to a community development district established pursuant present law. (~~Present law~~ authorizes such a district to finance, construct, and operate various public facilities and authorizes the levy of special property assessments, based on proportionate benefit from the facility, to fund such activities.)

Proposed law provides procedures for the levy of any tax or assessment, including a requirement for voter approval unless there are no voters in the district. If a district is expanded to include an area where qualified electors reside, proposed law prohibits collection of a tax in the added area unless the qualified electors of that added area approve the tax.

Proposed law authorizes such a district to create subdistricts which are governed by the board of commissioners and have the same powers as the district.

Proposed law authorizes the district to issue bonds and to otherwise incur debt. Provides requirements and procedures therefor.

Proposed law provides that such a district shall dissolve and cease to exist upon the later to occur of either one year after the date on which all debt of the district is paid in full or 50 years from the creation of the district.

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

(Adds R.S. 33:9038.72)