Regular Session, 2014

ACT No. 834

HOUSE BILL NO. 1019

BY REPRESENTATIVE GAROFALO

1	AN ACT
2	To enact Subpart B-31 of Part IV of Chapter 1 of Title 33 of the Louisiana Revised Statutes
3	of 1950, to be comprised of R.S. 33:130.591.1 through 130.591.10, to create the
4	St. Bernard Parish Economic Development Commission; to provide relative to the
5	territorial jurisdiction, purposes, and powers and duties of the commission; to
6	provide relative to commission funding, including the authority to levy ad valorem
7	taxes; to provide for exceptions; and to provide for related matters.
8	Notice of intention to introduce this Act has been published
9	as provided by Article III, Section 13 of the Constitution of
10	Louisiana.
11	Be it enacted by the Legislature of Louisiana:
12	Section 1. Subpart B-31 of Part IV of Chapter 1 of Title 33 of the Louisiana Revised
13	Statutes of 1950, comprised of R.S. 33:130.591.1 through 130.591.10, is hereby enacted to
14	read as follows:
15	SUBPART B-31. ST. BERNARD PARISH ECONOMIC DEVELOPMENT
16	COMMISSION
17	§130.591.1. St. Bernard Parish Economic Development Commission; creation;
18	purpose; territorial jurisdiction
19	A. The St. Bernard Parish Economic Development Commission, referred to
20	in this Subpart as the "commission", is hereby created as a body politic and political
21	subdivision of the state of Louisiana, as defined in Article VI, Section 44 of the
22	Constitution of Louisiana. Pursuant to Article VI, Sections 19 and 21 of the
23	Constitution of Louisiana, the commission, acting through its board of
24	commissioners, referred to in this Subpart as the "board", is hereby granted all of the

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	rights, powers, privileges, and immunities granted to political subdivisions for
2	industrial, commercial, research, and economic development purposes, including but
3	not limited to the power of taxation, the power to incur debt and issue revenue and
4	general obligation bonds, certificates of indebtedness, bond and certificate
5	anticipation notes, and refunding bonds, subject to the limitations provided in this
6	Subpart.
7	B. The commission is established for the primary object and purpose of
8	promoting, encouraging, and participating in industrial development to stimulate the
9	economy through commerce, industry, and research and for the utilization and
10	development of natural, physical, and human resources of the area by providing job
11	opportunities.
12	C. The territorial limits of the commission shall be coterminous with the
13	boundaries of the parish of St. Bernard.
14	§130.591.2. Governance of the commission
15	A.(1) The commission shall be governed by the board which shall be
16	composed as follows:
17	(a) The governing authority of the parish of St. Bernard shall appoint three
18	members.
19	(b) The legislative delegation for St. Bernard Parish shall appoint two
20	members.
21	(c) The board of directors of the St. Bernard Parish Chamber of Commerce
22	shall appoint two members.
23	(d) The St. Bernard Parish Economic Development Foundation shall appoint
24	two members.
25	(e) The St. Bernard Kiwanis Foundation shall appoint one member.
26	(f) The St. Bernard Rotary Club shall appoint one member.
27	(g) The Meraux Foundation shall appoint one member.
28	(h) The Business and Professional Women's Club shall appoint one member.
29	(i) The New Orleans Metropolitan Association of Realtors shall appoint one
30	member.

1	(j) The president of the parish of St. Bernard or his designee.
2	(k) The superintendent of the St. Bernard Parish school board or his
3	designee.
4	(1) The executive director of the St. Bernard Parish Chamber of Commerce
5	or his designee.
6	(m) The director of the St. Bernard Port, Harbor & Terminal District or his
7	designee.
8	(n) The chancellor of Nunez Community College or his designee.
9	(o) The executive director of the St. Bernard Parish Economic Development
10	Foundation.
1	(p) Any three of the ten largest employers in the private sector in St. Bernard
12	Parish as designated by the St. Bernard Economic Development.
13	(2)(a) Members serving pursuant to Subparagraphs (1)(b) through (i) of this
14	Subsection shall serve three years after serving initial terms as provided in this
15	Subparagraph. Three members shall serve an initial term of one year; four shall
16	serve two years; and four shall serve three years; as determined by lot at the first
17	meeting of the board.
18	(b) Members serving pursuant to Subparagraph (1)(a) of this Subsection
19	shall serve terms concurrent with the term of the appointing authority.
20	(c) Members serving pursuant to Subparagraphs (1)(j) through (n) shall serve
21	during their terms of office.
22	(d) Any designee serving on the board shall serve at the pleasure of the
23	designating authority.
24	(e) All appointees and designees shall be residents and qualified voters of the
25	parish of St. Bernard.
26	B. The board may adopt bylaws or such other rules and regulations as it
27	deems necessary for conducting its business affairs. The board may appoint and
28	retain all employees it deems advisable and fix the powers, duties, and compensation
29	of such employees. The board shall hold regular meetings and may hold special
30	meetings as shall be provided in the bylaws.

1	C. The board shall elect from among its own members a president, a vice
2	president, a secretary, and a treasurer, whose duties shall be those usual to such
3	offices. At the option of the board, the offices of secretary and treasurer may be held
4	by one person.
5	D. Board members shall serve without compensation; however, the board
6	may reimburse any member for expenses actually incurred in the performance of
7	duties on behalf of the commission.
8	E. Any member of the board may be removed with or without cause by the
9	respective appointing or designating authority.
10	F. A majority of the members of the board shall constitute a quorum for the
11	conduct of business.
12	G. The board shall maintain suitable offices in the parish of St. Bernard.
13	H. Members of the board, individually, and members of their immediate
14	families are prohibited from bidding on or entering into any contract, subcontract,
15	or other transaction that is under the supervision or jurisdiction of the commission.
16	§130.591.3. Powers of the commission
17	A. The commission, acting by and through its board, shall have and exercise
18	all powers of a political subdivision necessary or convenient for the carrying out of
19	its objects and purposes, including but not limited to the following rights and powers:
20	(1) To sue and be sued.
21	(2) To adopt, use, and alter at will a corporate seal.
22	(3)(a) To acquire by donation, grant, purchase, or lease, all property
23	including servitudes or rights of use; to hold and use any franchise or property,
24	immovable or movable, corporeal or incorporeal, or any interest therein, necessary
25	or desirable for carrying out the objects and purposes of the commission, including
26	but not limited to the establishment, maintenance, and operation of industrial parks.
27	(b) Nothing in this Paragraph shall be construed to apply to electric
28	cooperatives or investor owned public utilities that are regulated by the Louisiana
29	Public Service Commission or the city of New Orleans.

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1	(4) To receive by grant, donation, or otherwise any sum of money, or
2	property, aid, or assistance from the United States, the state of Louisiana, or any
3	political subdivision thereof, or any person, firm, or corporation.
4	(5) To enter into contracts for the purchase, acquisition, construction,
5	maintenance, and improvement of works and facilities necessary in connection with
6	the purposes of the commission.
7	(6) In its own name and on its own behalf to incur debt and to issue general
8	obligation bonds, revenue bonds, certificates, notes, and other evidences of
9	indebtedness and to levy and cause to be collected ad valorem taxes as provided in
10	this Subpart and as may be provided by general law.
11	(7) To require and issue licenses with respect to its properties and facilities.
12	(8) To regulate the imposition of fees and rentals charged by the commission
13	for its facilities and for services rendered by it.
14	(9) To mortgage properties constructed or acquired and to borrow money and
15	pledge all or part of its revenues, leases, rents, or other advantages as security for
16	such loans.
17	(10) To sell immovable property owned by the commission after legal notice
18	as provided by law for the judicial sale of immovable property.
19	(11) To contract, upon such terms as it may agree upon, for legal, financial,
20	engineering, and other professional services necessary or expedient in the conduct
21	of its affairs.
22	(12) To utilize the services of the executive departments of the state upon
23	mutually agreeable terms and conditions.
24	(13) To do any and all things necessary or proper for the government,
25	regulation, development, and control of the business of the commission.
26	B. The commission shall not be considered to be an instrumentality of the
27	state for purposes of Article X, Section 1 of the Constitution of Louisiana.
28	C. Any contract or agreement entered into by the board shall comply with
29	state law and public policy.

D. No action or work undertaken by the board or contract or agreement entered into by the board shall violate the master plan of the Coastal Protection and Restoration Authority or any statewide drainage and flood control plan administered by the Department of Transportation and Development.

§130.591.4. Commercial and industrial development

A.(1) In order to promote commerce and industry and develop trade by inducing manufacturing, industrial, commercial, and other enterprises, including those relating to arts, entertainment, and culture, to locate within the jurisdiction of the commission, and to attract and retain business and commercial enterprises within the jurisdiction of the commission to maintain employment and the economy of the area, the commission shall have authority to plan, finance, develop, acquire, own, construct, repair, renovate, and improve commercial and industrial parks and plant buildings within the jurisdiction of the commission, including sites and other necessary property or appurtenances thereto, and to acquire, construct, develop, improve, operate, maintain, and provide improvements and services necessary therefor, including but not limited to roads, streets, lighting, bridges, rail facilities, drainage, sewers, sewerage disposal facilities, plant solid waste disposal facilities, water works, and other utilities and related properties.

(2)(a) The commission shall also have the authority to sell, lease, or otherwise dispose of, by suitable and appropriate contract, to any enterprise locating or existing within the jurisdiction of the commission all or any part of a site, building, or other property owned by the commission.

(b) In determining the consideration for any contract to lease, sell, or otherwise dispose of lands, buildings, or other property of the commission, the board may take into consideration the value of the lands, buildings, or other properties involved as well as the potential value of the economic impact of the enterprise being induced to locate or expand within the jurisdiction of the commission. Such economic impact shall include increased employment, increased use of local labor, wages and salaries to be paid, consumption of local materials, products, and resources, and special tax revenue to be generated by the enterprise acquiring or

leasing lands, buildings, or other property from the commission. In no event, however, and under no circumstances shall the board dispose of any property of the commission for less than the fair market value of the property as defined in R.S. 47:2321 without the prior approval of the State Bond Commission.

(c) The commission shall be empowered to enter into leases having a term, including all renewal terms, not to exceed fifty years in the aggregate; provided that there shall be a provision for periodic adjustments of the rental rate, commensurate with economic conditions, during the fifty-year term.

(3)(a) The resolution or ordinance adopted by the board authorizing any lease, sale, or other disposition of lands, buildings, or other property of the commission or any attachment thereto shall set forth, in a general way, the terms of the authorized lease, sale, or other disposition, and such resolution or ordinance shall be published as soon as possible in one issue of the official journal of the commission.

(b) For a period of thirty days from the date of publication of any such resolution or ordinance, any interested person may contest the legality of such resolution or ordinance or the validity of the authorized lease, sale, or other disposition of commission property, after which time no one shall have any cause of action to contest the legality of the authorized lease, sale, or other disposition of commission property for any cause whatsoever, and it shall be conclusively presumed thereafter that every legal requirement has been complied with and no court shall have authority to inquire into such matters after the lapse of thirty days.

B. The commission shall have the following additional powers, together with all powers incidental thereto or necessary to carry out the provisions of this Subsection:

(1)(a) To acquire, whether by purchase, exchange, donation, or lease, and to construct and improve, maintain, equip, and furnish one or more economic development projects, including all immovable and movable properties which the board may deem necessary in connection therewith.

(b) Nothing in this Paragraph shall be construed to apply to electric cooperatives or investor-owned public utilities that are regulated by the Louisiana Public Service Commission or the city of New Orleans.
 (2) To lease or to contract for the use of any or all of its authorized projects and to charge and collect rent, fees, or charges therefor, and to terminate any such

and to charge and collect rent, fees, or charges therefor, and to terminate any such lease or contractual arrangement upon the failure of the obligations thereof, all as may be provided for in the lease agreement to which the commission may become a party.

(3) To sell, exchange, donate, and convey any or all of its projects upon such terms and conditions as the board may deem advisable, including the power to receive for any such sale the first mortgage note or notes of the purchaser of a project representing unpaid installments of the purchase price due by the purchaser to the commission whenever the board finds any such actions to be in furtherance of the purpose for which the commission was organized.

(4) As security for the payment of the principal of and interest on any bonds, notes, or other obligations of the commission, and any agreements made in connection therewith, to mortgage and pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom or from any other source.

(5)(a) To enter into any cooperative financing of an economic development project between or among the commission and the state of Louisiana, any of its political subdivisions or public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual. The methods of financing shall include loan guarantees, land write-downs, grants, lease guarantees, or any form of financial subsidy or incentive that complies with the provisions of Article VII, Section 14 of the Constitution of Louisiana.

(b) To enter into any cooperative development between or among the commission and the state of Louisiana, any of its political subdivisions or public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual. The methods of cooperative development

shall include but not be limited to any number of joint development agreements such as condominiums and cooperative ownership, limited partnerships, and investment syndicates not prohibited by the Constitution of Louisiana. Regardless of the method of financing, the commission shall attempt to obtain the most favorable security available in order to protect and ensure recovery of sums loaned or paid pursuant to such financing.

(c) "Cooperative endeavor" means any form of economic development assistance between or among the commission and the state, any of its local governmental subdivisions, political corporations or public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual. The term "cooperative endeavor" shall include but not be limited to cooperative financing, cooperative development, or any other form of cooperative economic development activity.

§130.591.5. Funding sources; fees and ad valorem tax; borrowing money

A. The board may, when necessary, levy annually an ad valorem tax not to exceed five mills on the dollar of assessed valuation of all property within its territorial limits if the amount, term, and purpose of the tax, as set out in a proposition submitted to a vote in accordance with the Louisiana Election Code, is approved by a majority of the qualified electors within the jurisdiction of the commission voting in an election held for that purpose.

B. All funds derived under this Section may be used for any expenses or purposes of the commission. The board shall establish and maintain, in addition to all necessary and normal accounts, the following special accounts:

(1) A revolving loan guarantee fund, to be used to guarantee industrial or business terminal development loans to the extent permitted by the Constitution of Louisiana under the following guidelines:

(a) Loan guarantees shall be made only when adequate financing for the project is unavailable through normal lending channels and the project represents a sound business venture that is financially and economically feasible.

1	(b) Loan guarantees shall be used to assist an identifiable business concern
2	to finance plant construction, conversion, or expansion and to finance acquisition of
3	land, existing structures, machinery, or equipment and to provide operational funds.
4	(c) The terms and rates shall be compatible with loans offered by local
5	lending institutions and the guarantee shall never exceed forty percent of the cost of
6	the total project. In addition, the commission shall attempt to obtain the most
7	favorable security available under the circumstances to protect and ensure the
8	recovery of its commitment under the guarantee.
9	(d) Loan guarantees may be evaluated for the economic impact in terms of
10	the number and types of jobs created or saved.
11	(e) Loan guarantees shall be made to leverage other sources of private and
12	public capital to attain the greatest economic impact possible with the limited funds
13	available.
14	(f) Loan guarantees shall be targeted to export industries, manufacturing
15	firms, wholesale distribution firms, and service firms.
16	(g) The lending or underwriting principals shall have such demonstrated
17	experience, ability, and net worth as would allow for the success, continuation,
18	security, and solvency of the program. Prudent lending and underwriting standards
19	shall be applied in order to comply with the primary objectives of this Subpart.
20	(2) An economic development operational fund, for the development and
21	attraction of industries to accomplish the following:
22	(a) The operational fund shall be used for operating expenses necessary in
23	creation of industrial and commercial development, in hiring sufficient staff to
24	accomplish the purposes set out in this Subpart, and other related expenses.
25	(b) The operational fund may also be utilized in contracting for services as
26	may be required by the board, including but not limited to planning assistance,
27	surveys, land use studies, professional and technical services, and other services
28	necessary to effectuate a unified industrial development plan.

(3) An account for the maintenance and operation of a governmental
procurement center to provide necessary information to companies and individuals
engaged in providing services and goods to accomplish the following:

- (a) Pinpoint and identify potential buying centers and aid in placing the company on a bidder's list for these centers and assist companies in obtaining specifications for their products or services.
- (b) Provide trained counselors to assist in acquiring solicitation and bid packages and conduct seminars designed to disseminate other information needed by the target companies and individuals.

§130.591.6. Obligations of the commission

A. The commission may incur debt for any one or more of its lawful purposes set forth in this Subpart, to issue in its name negotiable bonds, notes, certificates of indebtedness, or other evidences of debt and to provide for the security and payment thereof.

B.(1) The commission may in its own name and behalf incur debt and issue general obligation ad valorem property tax secured bonds under the authority of and subject to the provisions of Article VI, Section 33 of the Constitution of Louisiana, Subpart A of Part III of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, when approved by a majority of the qualified voters within the jurisdiction of the commission who vote in an election called and conducted under the authority of the Louisiana Election Code, including Chapter 6-A of Title 18 of the Louisiana Revised Statutes of 1950. General obligation bonds of the commission may be issued for any of the purposes for which the commission is created or is authorized to act under any provisions of this Subpart, all of which purposes are hereby found and declared to be public purposes and functions of the state of Louisiana, which are delegated to the commission.

(2) The commission may in its own name and behalf issue revenue bonds for the purposes for which the commission is created or is authorized to act under any of the provisions of this Subpart, including industrial and commercial development revenue bonds. The bonds shall be issued in the manner as provided for in Part XII

and Part XIII of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950.

(3) The commission may in its own name and behalf borrow from time to time in the form of certificates of indebtedness. The certificates shall be secured by the dedication and pledge of monies of the commission derived from any lawful sources, including fees, occupational license revenues, building permit charges dedicated to the commission, lease rentals, service charges, local service agreement payments from one or more other contracting parties, the avails of ad valorem property taxation, or any combination of such sources of income, provided that the term of such certificates shall not exceed ten years and the annual debt service on the amount borrowed shall not exceed the anticipated revenues to be dedicated and pledged to the payment of the certificates of indebtedness, as shall be estimated by the board at the time of the adoption of the resolution authorizing the issuance of such certificates. The estimate of the board referred to in the authorizing resolution shall be conclusive for all purposes of this Section.

(4) The commission may borrow the amount of the anticipated ad valorem tax, not to exceed five mills, authorized by R.S. 33:130.591.5, for a period not to exceed ten years and may issue certificates of indebtedness therefor and may dedicate the avails of the tax funded for the payment thereof for the period of time the certificates are outstanding.

(5) The board may adopt all necessary resolutions or ordinances necessary for ordering, holding, canvassing, and promulgating the returns of any election required for the issuance of general obligation bonds, or limited tax secured obligations, or for the voting of a property tax millage, which resolutions or ordinances may include covenants for the security and payment of any bonds or other evidence of debt so issued.

(6) For a period of thirty days from the date of publication of any resolution or ordinance authorizing the issuance of any bonds, certificates of indebtedness, notes, or other evidence of debt of the commission, any interested person may contest the legality of such resolution or ordinance and the validity of such bonds,

certificates of indebtedness, notes or other evidence of debt issued or proposed to be issued thereunder and the security of their payment, after which time no one shall have any cause of action to contest the legality of the resolution or ordinance or to draw in question the legality of the bonds, certificates of indebtedness, notes, or other evidence of debt, the security therefor, or the debts represented thereby for any cause whatever, and it shall be conclusively presumed that every legal requirement has been complied with, and no court shall have authority to inquire into such matters after the lapse of thirty days.

- (7) The issuance and sale of such bonds, certificates of indebtedness, notes, or other evidence of debt by the commission shall be subject to approval by the State Bond Commission.
- (8) Such bonds, certificates of indebtedness, notes, or other evidence of debt shall have all the qualities of negotiable instruments under the commercial laws of the state of Louisiana.

§130.591.7. Securities

Bonds, certificates, or other evidences of indebtedness issued by the commission under this Subpart are deemed to be securities of public entities within the meaning of Chapters 13 and 13-A of Title 39 of the Louisiana Revised Statutes of 1950, and shall be subject to defeasance in accordance with the provisions of Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, and may be refunded in accordance with the provisions of Chapters 14-A and 15 of Title 39 of the Louisiana Revised Statutes of 1950, and may also be issued as short-term revenue notes of a public entity under Chapter 15-A of Title 39 of the Louisiana Revised Statutes of 1950.

§130.591.8. Exemption from taxation

The commission and all properties at any time owned by the commission and the income therefrom and all bonds, certificates, and other evidences of indebtedness issued by the commission under this Subpart and the interest or income therefrom shall be exempt from all taxation by the state of Louisiana.

	8	130.591.9.	General of	compliances:	; enhancement;	budget
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A. No provision of this Subpart shall be construed so as to exempt the commission from compliance with the provisions of Louisiana laws pertaining to open meetings, public records, fiscal agents, official journals, dual officeholding and employment, public bidding for the purchase of supplies and materials, and construction of public works, the code of Governmental Ethics, the Right to Property in Article I, Section 4 of the Constitution of Louisiana, and the Louisiana Election Code.

B. The commission shall have the power and right to adopt a program or programs awarding contracts to, and establishing set-aside goals and preference procedures for the benefit of, businesses owned and operated by socially or economically disadvantaged persons in accordance with any of the provisions of R.S. 38:2233 and of Chapter 19 of Title 39 of the Louisiana Revised Statutes of 1950, entitled "Louisiana Minority and Women's Business Enterprise Act".

C. The board shall annually prepare a financial statement which shall be presented to the legislative auditor pursuant to the provisions of R.S. 24:513. The legislative auditor shall thereafter publish his findings in the official journal of the commission.

§130.591.10. Exceptions

A. Notwithstanding any other provision of law to the contrary, this Subpart shall not be construed to infringe upon any powers of the St. Bernard Port, Harbor and Terminal District.

B. Further, nothing contained in this Subpart shall be construed to permit the commission to engage in port, harbor, terminal, or other maritime activities within the jurisdiction, authority, and powers of the St. Bernard Port, Harbor and Terminal District pursuant to Chapter 14 of Title 34 of the Louisiana Revised Statutes of 1950, including but not limited to the ownership, operation, and maintenance of infrastructure and facilities related to those activities.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

ENROLLED

HB NO. 1019

APPROVED: ____