

2018 Regular Session

SENATE BILL NO. 362

BY SENATOR WARD

SPECIAL DISTRICTS. Creates regional authority for certain infrastructure needs and provides relative to taxing powers and uses. (gov sig)

1 AN ACT

2 To enact Part VIII of Chapter 2 of Title 48 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 48:771 through 780, relative to the Capital Area Road and Bridge
4 District; to provide for the territorial jurisdiction of the district; to provide for the
5 appointment and term of the board of commissioners; to provide for meetings of the
6 board of commissioners and the officers thereof; to provide relative to the powers of
7 the district; to authorize the district to levy special taxes, parcel fees, and sales taxes
8 if approved by a majority of the voters in the district; to provide for an effective date;
9 and to provide for related matters.

10 Notice of intention to introduce this Act has been published.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part VIII of Chapter 2 of Title 48 of the Louisiana Revised Statutes of
13 1950, comprised of R.S. 48:771 through 780, is hereby enacted to read as follows:

14 **PART VIII. CAPITAL AREA ROAD AND BRIDGE DISTRICT**

15 **§771. Creation of district; territorial jurisdiction**

16 **A. The Capitol Area Road and Bridge District is hereby created as a**
17 **political subdivision of the state of Louisiana for the purpose of raising revenue**

1 to finance road and bridge projects to alleviate traffic congestion in the district.

2 The district shall be comprised of all territories within the geographical
3 boundaries of the parishes of East Baton Rouge, Ascension, Livingston,
4 Iberville, and West Baton Rouge.

5 B. The creation of the district and the carrying out of its public purpose
6 is in all respects public and governmental purposes for the improvement of the
7 health, safety, welfare, comfort, and security of the people of the district, for
8 whom the district will be performing a public obligation in the exercise of the
9 powers conferred upon it by this Part.

10 §772. Definitions

11 As used in this Part, the following words, terms, and phrases shall have
12 the meanings ascribed to them in this Section, except where the context clearly
13 indicates a different meaning:

14 (1) "Bonds" means any bonds, notes, certificates, or other written
15 contracts or instruments evidencing the obligation to repay borrowed money
16 regardless of the designation thereof.

17 (2) "Governing authority" means the body which exercises the legislative
18 functions of a parish.

19 (3) "Local governmental subdivision" means a parish or municipality.

20 (4) "Road or bridge project" means a project undertaken pursuant to
21 this Part for the construction, development, reconstruction, acquisition,
22 extension, or improvement of works of capital improvements related to public
23 roads, streets, highways, bridges, and associated drainage, the title to which
24 shall be in the public, which project shall have a minimum total cost of not less
25 than twenty million dollars.

26 (5) "Project costs" means all costs associated with and necessary to plan,
27 design, acquire property rights, and construct a project, construction costs, and
28 such other expenses as may be necessary or incidental to the construction,
29 financing, and operation of the major project.

1 §773. Appointment and term of board of commissioners

2 A. The management and control of the district shall be vested in a board
3 of commissioners composed of six members.

4 (1) The secretary of the Department of Transportation and Development
5 or his designee shall be an ex officio, voting member of the board.

6 (2) Five members shall be appointed, one each by the governing
7 authority of each parish which participates in the district and which member
8 shall be a qualified elector domiciled in the parish. Commissioners shall be
9 selected based on their experience in financial or highway construction matters
10 and their ability to act effectively for the best interest of the district.

11 B. In the event any person so appointed ceases to be a member of the
12 board thereof for any reason, his successor shall be appointed in the same
13 manner as the original appointment provided in this Section.

14 C. Notwithstanding any provision of law to the contrary, members may
15 be state or local elected officials or employees of the state or any local
16 governmental subdivision.

17 §774. Meetings of board; officers; quorum; removal of commissioners; salaries
18 and expenses

19 A. At the first meeting of the board and annually thereafter, the
20 members shall select a chairman and a secretary from the membership and
21 such other officers as the board deems necessary. Meetings of the commission
22 shall be called by the chairman on his own notice or on request of any five
23 members. A majority of the commissioners shall constitute a quorum to do
24 business.

25 B. In case of the death, resignation, absence, inability, or failure to act
26 of the president, the secretary shall call the board together and the board shall
27 appoint one of their number to serve as acting president, and he shall perform
28 all the duties of president. In case of neglect of duty by any commissioner, or of
29 his failure, without good cause, to attend regular meetings for three times

1 successively, the governing authority that appointed the commissioner, on
2 request of the board, shall remove the commissioner and appoint his successor.

3 C. The members of the board shall serve without compensation and
4 shall have the power to fix the duties, powers, and compensation of all officers,
5 agents, and employees of the commission. The district may reimburse any
6 member for expenses actually incurred in the performance of his duties
7 hereunder.

8 D. The board of commissioners shall prescribe rules to govern its
9 meetings.

10 §775. Powers of the district

11 A. The district is hereby declared to constitute and is declared to be a
12 body politic and political subdivision of the state of Louisiana, as defined in
13 Article VI, Section 44 of the Constitution of Louisiana. The district shall be
14 subject to and may avail itself of any law relating to political subdivisions
15 generally, including but not limited to the following:

16 (1) To sue and be sued.

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

18 (3) To initiate or coordinate research, studies, and gathering of
19 information on the projects, including but not limited to the following:

20 (a) Engineering studies.

21 (b) Traffic flow and pattern studies.

22 (c) Environmental impact studies.

23 (d) Location of proposed routes.

24 (e) Economic development impacts and benefits.

25 (f) Utility relocation.

26 (g) Right-of-way acquisition.

27 (h) Project construction cost/benefit ratio studies.

28 (4) To be designated an official depository for information relating to
29 and about the projects. As such, it is empowered to receive and preserve all

1 information gathered by other parties pertaining to the project.

2 (5) To receive money from any public or private body which may desire
3 to appropriate or donate such funds to be used to defray the expenses of the
4 district.

5 B.(1) In furtherance of these purposes, the commission is specifically
6 authorized to apply for, receive, and accept from any state or federal agency,
7 or local subdivision of this state, any grant or contribution of either money,
8 property, or other things of value to be held, used, and applied for purposes for
9 which such grants and contributions may be made or for any other lawful
10 purposes that the commission has expressly authorized herein.

11 (2) The commission is also specifically authorized to hire such
12 accountants, attorneys, engineers, or other professional or scientific or other
13 expert advisors as the commission in its discretion may deem necessary or
14 advisable in order to carry out its mission. The professionals or scientific or
15 other expert advisors shall be compensated by the commission from funds
16 available to the commission pursuant to such agreement as may be entered into
17 by the commission with the hired or trained professionals or scientific or other
18 expert advisors. Neither the state nor any parish located within the boundaries
19 of the district shall in any way be a party to any agreement executed under the
20 provisions of this Paragraph, and neither the state nor any parish located within
21 the boundaries of the district shall in any way be held responsible for payment
22 of compensation under the agreements entered into by the commission.

23 §776. Advice and services of the Department of Transportation and
24 Development

25 The commission and the board of commissioners therefor shall have,
26 with respect to all of the powers and functions prescribed by this Part, the
27 advice and services of the Louisiana Department of Transportation and
28 Development. Within reason, it shall be the duty of the secretary of the
29 Department of Transportation and Development to make available such

1 department staff, expertise, and support as the commission may request.

2 §777. General compliance; enhancement

3 No provision of this Part shall be construed so as to exempt the district
4 from compliance with the provisions of Louisiana laws pertaining to open
5 meetings, public records, fiscal agents, official journals, dual office holding and
6 employment, public bidding for the purpose of supplies and materials, and the
7 Code of Governmental Ethics. The district shall be permitted to use alternative
8 competitive procurement and delivery methods for the award of any contracts
9 for a major project.

10 §778. Special taxes

11 A. Pursuant to Article VI, Section 30 of the Louisiana Constitution of
12 1974, the board of commissioners may levy an ad valorem tax or taxes for a
13 term as determined by the board of commissioners, for the purpose of
14 acquiring, constructing, improving, equipping, furnishing, maintaining, or
15 operating any work of public improvement, including both movable and
16 immovable property necessary in connection with road and bridge projects,
17 which shall include a new Mississippi River bridge located within the
18 boundaries of the district, when authorized by a majority of the electors in the
19 district who vote thereon in an election held for that purpose.

20 B. For the purpose of providing revenue to carry out the objects
21 contemplated in this Part, the board of commissioners may levy on all property
22 in the district, subject to taxation, an ad valorem tax not to exceed five mills on
23 the dollar of its assessed valuation, as provided by Article VI, Section 19 of the
24 Constitution of Louisiana. The tax shall not be levied unless the proposition to
25 levy the tax is approved by a majority of the electors of the district who vote on
26 the proposition. Furthermore, such tax shall be levied only in those parishes in
27 which a majority of the electors of the parish, voting in an election approve such
28 proposition, and such proposition on the ballot provides that the ad valorem tax
29 is to be levied only in said parishes.

1 C.(1) Subject to the approval of the State Bond Commission and the
2 approval of a majority of the electors of the district voting in an election held
3 for that purpose, the governing authority of the district shall have the authority
4 to incur debt and issue revenue bonds for the purpose of constructing,
5 acquiring, extending, or improving works of capital improvement related to
6 roads and other similar public works, which shall include a new Mississippi
7 River bridge located within the boundaries of the district.

8 (2) Such bonds shall be authorized and issued in accordance with the
9 provisions of Part XIII of Chapter 4, Chapter 13, and Chapter 13-A, all of Title
10 39 of the Louisiana Revised Statutes of 1950. Such bonds shall be issued in the
11 name of the district and shall not be general obligations of the district,
12 Ascension Parish, East Baton Rouge Parish, Iberville Parish, Livingston Parish,
13 West Baton Rouge Parish, or the state of Louisiana.

14 (3) Such bonds shall be issued by the commission of the district only
15 after authorization by a majority of the electors of the district voting in an
16 election held in accordance with the election laws of the state of Louisiana.

17 §779. Parcel fees

18 A. The district may levy and collect a parcel fee within the boundaries
19 of the district which shall not exceed five hundred dollars per parcel per year.
20 The parcel fee shall be imposed by resolution or ordinance of the board of
21 commissioners of the district, only after the question of the imposition of the
22 parcel fee and the purpose, rate, and duration of the parcel fee has been
23 approved by a majority of the electors of the district voting at an election held
24 therein. The proceeds of such parcel fee shall be expended for road and bridge
25 projects, which shall include a new Mississippi River bridge located within the
26 boundaries of the district, as set forth in the proposition approved by the
27 electors including the payment of any bonds of the district incurred for such
28 purpose. Any parcel fee imposed pursuant to this Section shall be levied and
29 collected and be due and owing annually. The fee may be carried on the tax

1 rolls and collected at the same time as parish or municipal ad valorem taxes.

2 B.(1) If any parcel fee is not paid when due, the district shall proceed
3 against the parcel for the collection of the amount of the fee unpaid and
4 delinquent, any collection costs incurred by the district, plus interest at a rate
5 not exceeding twelve percent on the unpaid amount of the parcel fee, and, in the
6 event legal proceedings are necessary to effect collection, court costs and
7 reasonable attorney fees. However, attorney fees shall be payable by the parcel
8 owner only if demand by the district has been made on the parcel owner by
9 registered or certified mail, and such parcel owner has failed to pay the amount
10 due within ten days after such demand.

11 (2) A judgment obtained for nonpayment of a parcel fee, upon being
12 recorded in the mortgage records of the parish, shall prime all other liens except
13 those for taxes and prior recorded local or special assessments. If there are one
14 or more property mortgages on such parcel and the mortgage holder or holders
15 have notified the tax collector in the appropriate parish of such recorded
16 mortgage or mortgages in accordance with the requirements of R.S. 47:2159,
17 the district, prior to proceeding against such parcel for failure to pay a parcel
18 fee, shall give notice to each mortgagee of the amount of the parcel fee due and
19 owing on such parcel and that such parcel fee must be paid within twenty days
20 after the mailing of the notice or proceedings will be commenced against the
21 parcel. The notice shall be sent to each such mortgage holder by certified mail,
22 return receipt requested, or be made by personal or domiciliary service on such
23 mortgage holder. In the event such notice is given, the district shall not
24 commence such proceedings until at least twenty days after the mailing of such
25 notice.

26 (3) Alternatively, the lien authorized by this Section may be enforced by
27 assessing the amount of the lien against the parcel as a tax against the property.
28 The lien may be collected in the manner fixed for collection of taxes and shall
29 be subject to the same civil penalties for delinquencies. After the district has

1 incurred such costs and expenses as together with any amount of the parcel fee
2 which remains unpaid and delinquent constitute the lien on the property,
3 including any costs of court, attorney fees, and interest, the governing authority
4 may send an attested bill of such unpaid amount, costs, and expenses to the tax
5 collector for the parish who shall add the amount of such bill to the next tax bill
6 of the property owner. The lien shall prime all other liens or privileges against
7 the property, except other tax liens, filed after the statement specified in this
8 Section is filed with the recorder of mortgages, regardless of the date on which
9 the lien is perfected.

10 §780. Sales taxes

11 (1) The district may, in accordance with this Subsection, levy and collect
12 a sales and use tax not to exceed one percent within the district. The sales and
13 use tax authorized by this Subsection shall be imposed by ordinance of the
14 district and shall be levied upon the sale at retail, the use, lease or rental,
15 consumption, and the storage for use or consumption of tangible personal
16 property, and on sales of services, all as defined in Chapter 2 of Subtitle II of
17 Title 47 of the Louisiana Revised Statutes of 1950 in the district. The proceeds
18 of the sales tax shall be expended for road and bridge projects, which shall
19 include a new Mississippi River bridge located within the boundaries of the
20 district. However, the ordinance imposing said tax shall be adopted by the
21 district only after the question of the imposition of the tax has been submitted
22 to the qualified electors of the district at an election to be conducted in
23 accordance with the election laws of the state of Louisiana, and the majority of
24 those voting in the election have voted in favor of the imposition of the tax.

25 (2) The tax shall be in addition to all other authorized sales and use taxes
26 and shall be collected at the same time and in the same manner as set forth in
27 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.
28 Any sales and use tax levied by the Capital City Road and Bridge District shall

1 be excluded from the calculation of total sales and use taxes levied within an
 2 area for the purposes of R.S. 47:338.54.

3 (3) The tax shall be imposed and collected uniformly throughout the
 4 district.

5 (4) The commission may fund the sales tax revenues into bonds in the
 6 manner provided by Subpart F, Part III, Chapter 4, Title 39 of the Louisiana
 7 Revised Statutes of 1950 provided that the question of or proposition to
 8 authorize the funding of sales tax revenues into bonds shall have been submitted
 9 to the electors of the district, at an election called, conducted, canvassed, and
 10 promulgated by the governing authority of the governmental entity, in
 11 accordance with the Louisiana Election Code, and a majority of those electors
 12 voting in such election shall have voted in favor of the question or proposition
 13 to fund the sales tax revenues into bonds. The question or proposition with
 14 respect to the funding of the sales tax revenues into bonds may be voted upon
 15 at the election held to authorize the imposition of the sales tax or may be
 16 submitted at a separate election held for such purpose. No proceeding, hearing,
 17 notice, or approval shall be required for the issuance of any bonds or any
 18 instrument as security therefor, except as provided by this Section or by the
 19 Constitution of Louisiana.

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

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

and bridge projects to alleviate traffic congestion. The district shall be comprised of all territories within the geographical boundaries of the parishes of East Baton Rouge, Ascension, Livingston, Iberville, and West Baton Rouge.

Proposed law defines, for purposes of proposed law, "bonds", "governing authority", "local governmental subdivision", "road or bridge project", and "project costs".

Proposed law provides that the management and control of the district shall be vested in a board of commissioners composed of six members, including the secretary of DOTD, with one member appointed by the governing authority of each parish. Proposed law allows for members to be state or local elected officials or employees of the state or any local governmental subdivision.

Proposed law provides for meetings of the board, the selection of officers, quorums, and the removal of commissioners.

Proposed law provides for the powers of the district, and allows the district to avail itself of any laws relative to political subdivision generally, including the following:

- (1) To sue and be sued.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To initiate or coordinate research, studies, and gathering of information on the projects, including but not limited to the following:
 - (a) Engineering studies.
 - (b) Traffic flow and pattern studies.
 - (c) Environmental impact studies.
 - (d) Location of proposed routes.
 - (e) Economic development impacts and benefits.
 - (f) Utility relocation.
 - (g) Right-of-way acquisition.
 - (h) Project construction cost/benefit ratio studies.
- (4) To be designated an official depository for information relating to and about the projects.
- (5) To receive money from any public or private body which may desire to appropriate or donate such funds to be used to defray the expenses of the district.

Proposed law specifically authorizes the commission to apply for, receive, and accept from any state or federal agency, or local subdivision of this state, any grant or contribution of either money, property, or other things of value to be held, used, and applied for purposes for which such grants and contributions may be made or for any other lawful purposes that the commission has expressly authorized herein.

Proposed law provides that the commission shall have the advice and service of DOTD.

Proposed law provides that the district shall comply with present law pertaining to open meetings, public records, fiscal agents, official journals, dual office holding and

employment, public bidding for the purpose of supplies and materials, and the Code of Governmental Ethics. Proposed law further provides that the district is permitted to use alternative competitive procurement and delivery methods for the award of any contracts for a major project.

Proposed law authorizes the board to levy an ad valorem tax or taxes for a term as determined by the board of commissioners, for the purpose of acquiring, constructing, improving, equipping, furnishing, maintaining, or operating any work of public improvement, including both movable and immovable property necessary in connection with road and bridge projects, which shall include a new Mississippi River bridge located within the boundaries of the district, when authorized by a majority of the electors in the district who vote thereon in an election held for that purpose.

The board is further authorized to levy a millage, not to exceed five mills, to provide revenue to carry out the purposes of proposed law, when authorized by a majority of the electors in the district who vote thereon in an election held for that purpose. Provides that proceeds of the millage shall be used for roads and other similar public works, which shall include a new Mississippi River bridge to be located within the boundaries of the district.

Proposed law authorizes, subject to the approval of the State Bond Commission and the approval of a majority of the electors of the district voting in an election held for that purpose, the district to incur debt and issue revenue bonds for the purpose of constructing, acquiring, extending, or improving works of capital improvement related to roads and other similar public works, including a new Mississippi River bridge to be located within the boundaries of the district. Proposed law prohibits such bonds from being general obligations of the district, Ascension Parish, East Baton Rouge Parish, Iberville Parish, Livingston Parish, West Baton Rouge Parish, or the state of Louisiana.

Proposed law authorizes the district to levy and collect a parcel fee within the boundaries of the district which shall not exceed five hundred dollars per parcel per year, after approval of a majority of the electors voting in an election held for that purpose. Proposed law sets for the procedures to collect the parcel fee. Proposed law provides the parcel fee proceeds shall be used for road and bridge projects, which shall include a new Mississippi River bridge to be located within the boundaries of the district.

Proposed law also authorizes the district to levy and collect a sales tax not to exceed one percent within the district, after approval of a majority of the electors voting in an election held for that purpose, and allows for the sales tax to be funded into bonds if such is approved by the electors. Proposed law provides the sales tax proceeds shall be used for road and bridge projects, and shall include a new Mississippi River bridge to be located within the boundaries of the district.

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

(Adds R.S. 48:771-780)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Specifies that the ad valorem or sales taxes or the parcel fee levied by the district shall include a new Mississippi River bridge in the boundaries of the district.

2. Changes the number of members of the board, not including the secretary of DOTD, from 10 appointed by the governor to 5 appointed, one by each parish governing authority.
3. Removes the 20 year term of the tax and the parcel fee.
4. Removes the authority to levy a tax on gasoline, motor fuels, and special fuels in the event the La. Const. is amended to allow a local gasoline tax.

Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.
2. Adds notice of local advertisement language.