

2015 Regular Session

SENATE BILL NO. 220

BY SENATOR CHABERT

SPECIAL DISTRICTS. Provides relative to the Bayou Lafourche Fresh Water District. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 38:3086.21 and 3086.24, relative to the Bayou Lafourche Fresh
3 Water District; to provide definitions; to provide the district with additional powers;
4 to authorize the district to acquire and sell certain property; to authorize the
5 promulgation of certain rules, regulations, and ordinances; to provide penalties; to
6 provide terms, conditions, and requirements; and to provide for related matters.

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 38:3086.21 and 3086.24 are hereby enacted to read as follows:

10 §3086.21. Creation; purposes; **definitions; jurisdiction**

11 **A.** There is hereby created a body politic and corporate to be known as Bayou
12 Lafourche Fresh Water District, for the purpose of furnishing fresh water from any
13 available fresh water source, including any ground water and surface water sources
14 to the water purification facilities serving the incorporated villages, towns, and cities
15 along Bayou Lafourche and within or adjacent to the boundaries of the district, as
16 provided in this Part.

17 **B. As used in this Part, the following terms and phrases shall have the**

1 following meanings, unless the context requires otherwise:

2 (1) "Board" means the board of commissioners of the Bayou Lafourche
3 Fresh Water District.

4 (2) "District" means the Bayou Lafourche Fresh Water District.

5 (3) "Watercraft" means anything used or designated for navigation on
6 water.

7 (4) "Waterway" means Bayou Lafourche or any navigable bayou or
8 river, or portion thereof, located within the geographical boundaries of the
9 district.

10 * * *

11 §3086.24. Powers

12 A. The domicile of said board shall be in the city of Thibodaux, Lafourche
13 Parish, Louisiana. The district shall have the power to sue and be sued, through its
14 board of commissioners, and service of process in any such suit against the district
15 shall be made upon the chairman of the board of commissioners, the vice chairman,
16 or upon its secretary-treasurer but this provision shall not constitute a waiver of
17 the governmental immunity to which the district is entitled.

18 B. The district shall have authority to incur debt, issue bonds, and levy taxes
19 for the retirement of same, under the provisions of R.S. 33:3811 et seq., and to levy
20 special taxes under the provisions of Article VI, Sections 31 and 32 of the
21 constitution in accordance with the provisions of law carrying these Articles into
22 effect and particularly the applicable provisions of Title 39 of the Louisiana Revised
23 Statutes of 1950. The district may acquire by purchase, donation, or lease and
24 may hold and use any immovable or movable property, whether corporeal or
25 incorporeal, or any interest therein necessary or desirable for carrying out the
26 purposes of the district, and may sell, lease, transfer, or convey any property or
27 interest therein at any time acquired by it.

28 C. The district shall also have authority to fix and collect, on a gallonage
29 basis, charges for water so furnished.

1 D. Ad valorem taxes so levied by the district shall be assessed and collected
2 in the same manner as state and parish taxes, and the board of commissioners shall
3 prescribe the method for collecting any fixed charges levied on a gallonage basis.
4 The treasurer shall be bonded in such sum as the board may require, the premium on
5 said bond to be paid by the district.

6 E. The board of commissioners shall have power to take the necessary steps
7 to effectuate a program of beautification of the area within the jurisdiction of the
8 commission, particularly but not limited to the banks of Bayou Lafourche, including
9 the necessary police power and authority to adopt penalties in connection with such
10 program. For the purposes of this Part "beautification" shall have the following
11 meaning: any method, procedure, or program which has the effect of creating more
12 pleasant surroundings.

13 **F.(1) In order to accomplish the purposes of the district, the board may**
14 **make and enforce such rules, regulations, and ordinances it shall deem**
15 **necessary:**

16 **(a) To protect and preserve the works, improvements and properties**
17 **owned or controlled by the district, prescribe the manner of their use by any**
18 **person or entity, and preserve order within and adjacent to properties owned**
19 **or controlled by the district.**

20 **(b) To protect and preserve the waterway from any substance or act**
21 **which would render the water therein unfit for the purposes of the district,**
22 **including but not limited to prohibiting or regulating the discharge of any**
23 **substance into the waterway in concentrations which tend to degrade the**
24 **chemical, physical, biological, or radiological integrity of the waterway.**

25 **(c) To prohibit any person or entity from abandoning, sinking, allowing**
26 **to be sunk, or failing to remove any watercraft from in or on the waterway after**
27 **having been requested to do so in writing.**

28 **(d) To prohibit any person or entity from erecting, locating, constructing,**
29 **or using any building or structures within the district that may threaten the**

1 purposes of the district unless a permit has been approved by the board.

2 (e) To prohibit any person or entity from knowingly or willfully
3 emptying, draining, or permitting to be drained from any pump, reservoir, well
4 or oil field into the waterway any oil, salt water, or other noxious, toxic,
5 hazardous, or poisonous gas, liquid, or substance which would render the
6 waterway unfit for the purposes of the district or for human consumption, or
7 would destroy the aquatic and fish life in the waterway. Each day that oil, salt
8 water, or other prohibited substances are permitted to empty, drain or flow into
9 the waterway shall constitute a separate and distinct offense.

10 (f) To regulate the conduct, management, and control of its operations
11 and functions, and its structures and other facilities within its jurisdiction or
12 under its administration.

13 (g) To protect property, life, and the welfare of its employees and the
14 public.

15 (h) To control, use, and protect its property, equipment, and other
16 facilities and improvements.

17 (i) To control, regulate, and protect the channel and banks of the
18 waterway from erosion, decay, or destruction.

19 (j) To control and regulate the pumping of or flowing of water into the
20 waterway from adjacent or nearby canals, drainage systems, bayous, ditches,
21 streams, tributaries, or other sources which empty or are pumped into the
22 waterway.

23 (2) Notwithstanding R.S. 34:851.27 or any other provision of law to the
24 contrary, and upon a declaration of an emergency by the board that the size and
25 speed of watercraft traveling through the waterway needs to be regulated to
26 protect the integrity of the banks of the waterway due to low water levels or due
27 to another event causing the banks to be in peril of erosion or instability, the
28 board may:

29 (a) Implement and enforce a "no-wake" zone where each watercraft

1 shall operate at bare steerage speed, the slowest speed the watercraft can travel
2 while allowing the operator to maintain directional control of the watercraft to
3 produce the minimum water surface turbulence.

4 (b) Limit the size of watercraft permitted to travel in certain areas of the
5 waterway until there is no declaration of emergency. Except during times of a
6 declaration of an emergency by the board, the provisions of this Paragraph shall
7 not supersede or otherwise interfere with the authority of the Department of
8 Wildlife and Fisheries.

9 (3) The board shall not make and enforce any rules, regulations, and
10 ordinances that shall impair the rights and obligations in C.C. Arts. 655 and
11 656, or that shall affect any agriculture drainage established prior to the
12 creation of the district.

13 G. In addition, the board may adopt an anti-littering ordinance with penalties
14 for the violation thereof not to exceed a fine of ~~two hundred fifty~~ **five hundred**
15 dollars.

16 H.(1) The rules, regulations, and ordinances established and
17 promulgated by the board shall provide penalties and shall be enforced by any
18 state or local law enforcement agency having jurisdiction in the district. Any
19 violations shall be prosecuted by the district attorney in the judicial district
20 where the violation occurred.

21 (2) The rules, regulations, and ordinances may contain penalties,
22 including a fine of not more than five hundred dollars or imprisonment of not
23 more than six months, or both.

24 ~~G.~~ I.(1) The board of commissioners shall have full power to adopt and
25 enforce, by penal ordinance, such sanitary regulations as it may deem necessary to
26 protect from pollution the water so furnished, after it leaves its source and to that end
27 may regulate the location, construction, or use of any buildings or structures within
28 the district, where same threaten to pollute or pollute said water.

29 (2) For the purposes of this Part the following definitions of pollution shall

1 apply:

2 (a) "Ashes" includes the solid residue resulting from the combustion of all
3 fuels used for heating, cooking, and the production of power in any public or private
4 establishment, institution, or residence.

5 (b) "Garbage" includes all putrescible waste matter except sewage and
6 recognizable industrial byproducts and includes putrescible vegetable matter, animal
7 offal, and animal carcasses.

8 (c) "Refuse" includes garbage, rubbish, ashes, animal and vegetable waste
9 from animal quarters, and all other waste matter, except sewage, from any public or
10 private establishment, institution, or residence.

11 (d) "Rubbish" includes all nonputrescible waste matter, except ashes, from
12 any public or private establishment, institution, or residence.

13 (e) "Untreated sewage" includes animal feces and urine as well as any
14 material contaminated by animal body discharges and waste feed stuff which has not
15 been subjected to proper primary treatment. Any such action by the board shall be
16 subject to review by the courts.

17 H: J.(1) The board shall have full power and authority to cooperate and
18 contract with the United States government, or any of its agencies, the state of
19 Louisiana, or any of its departments, agencies, commissions, districts, or other
20 political subdivisions, or with any person, firm, partnership, or corporation, with the
21 view of accomplishing the construction, maintenance, and operation of pumping
22 facilities and appurtenant pipeline facilities, the purpose of which would be to
23 provide fresh water for said Bayou Lafourche. In the event that such pumping
24 facilities and appurtenant pipeline facilities are constructed, erected, or installed by
25 the state of Louisiana, the office of engineering of the Department of Transportation
26 and Development, state of Louisiana, the Coastal Protection and Restoration
27 Authority Board, the board of commissioners for the Lafourche Basin Levee District,
28 the board of commissioners for the Atchafalaya Basin Levee District, the board of
29 commissioners for the Lafourche Parish Water District No. 1 or other local interests,

1 and the board of commissioners for the Bayou Lafourche Freshwater District, or any
2 of them, it shall be the obligation of the board of commissioners for the Bayou
3 Lafourche Fresh Water District, and the board is hereby authorized and directed to
4 operate and maintain such pumping and pipeline facilities so as to provide an
5 adequate supply of fresh water in Bayou Lafourche.

6 (2) The board of commissioners for the Bayou Lafourche Fresh Water
7 District shall also have power and authority to contribute to the cost of construction
8 and installation of such pumping and pipelining facilities from any funds available
9 for such purpose. It shall also be the obligation of said board to operate and maintain
10 such drainage facilities, floodgates, channel improvements, and drainage structures
11 and appurtenances constructed with the view of providing fresh water in Bayou
12 Lafourche and facilitating the flow thereof. The board shall have power and authority
13 to contribute to the cost of construction of any of the facilities mentioned in this
14 Section.

15 ~~†~~ **K.** The board of commissioners may implement measures for the
16 abatement of water hyacinths within the water bodies of the parishes of Ascension,
17 Assumption, and Lafourche.

18 ~~‡~~ **L.** The board of commissioners may develop and implement measures to
19 prevent the intrusion of salt water into the flow of fresh water.

20 ~~Ⓚ~~ **M.** The board of commissioners may execute such contracts for the sale
21 or purchase of water pursuant to the authority granted the district in R.S. 33:4164.

22 ~~Ⓛ~~ **N.**(1) With the approval of the Coastal Protection and Restoration
23 Authority Board, the board of commissioners, in addition to any other powers and
24 duties provided by law, may establish on its own behalf or for the areas under its
25 authority, particularly but not limited to the banks of Bayou Lafourche, water
26 resources development and integrated coastal protection, including but not limited
27 to the studying, engineering, designing, planning, maintenance, operation, and
28 construction of erosion control measures, marsh management, coastal restoration,
29 reservoirs, diversion canals, gravity and pump drainage systems, and other works as

1 such activities, facilities, and improvements relate to integrated coastal protection,
 2 conservation, water resources development, and saltwater intrusion. To that end and
 3 only upon approval of the Coastal Protection and Restoration Authority Board, the
 4 board of commissioners may regulate the location, construction, or use of any
 5 building or structure within the district, where such building or structure threatens
 6 to interfere with water resources development and integrated coastal protection.

7 (2) The board of commissioners may enter into contracts or other agreements,
 8 including cooperative endeavor agreements, with any public or private person or
 9 persons, corporation, association, or other entity, including the Coastal Protection
 10 and Restoration Authority Board, the state, and other agencies thereof, public
 11 corporations, port authorities, levee districts, parishes, other political subdivisions,
 12 or the United States government or agencies thereof, or any combination thereof, or
 13 with the instrumentalities of any kind to provide water resources development and
 14 integrated coastal protection, and to this end, may contract for the acceptance of any
 15 grant of money upon the terms and conditions, including any requirement of
 16 matching the grants in whole or in part, that may be necessary.

17 Section 2. This Act shall become effective upon signature by the governor or, if not
 18 signed by the governor, upon expiration of the time for bills to become law without signature
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 21 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 McHenry Lee.

DIGEST

SB 220 Engrossed 2015 Regular Session Chabert

Present law provides for the creation, purposes, and powers of the Bayou Lafourche Fresh Water District.

Proposed law provides certain definitions.

Present law provides that the district may sue and be sued.

Proposed law provides that the power of the district to be sued will not constitute a waiver of the governmental immunity to which the district is entitled.

Proposed law provides that the district may acquire by purchase, donation, or lease and may hold and use any immovable or movable property, whether corporeal or incorporeal, or any interest therein necessary or desirable for carrying out the purposes of the district, and may sell, lease, transfer, or convey any property or interest therein at any time acquired by it.

Proposed law provides for additional powers of the board. Provides that in order to accomplish its purpose the board may make and enforce such rules, regulations, and ordinances it deems necessary:

- (1) To protect and preserve the works, improvements and properties owned or controlled by the district.
- (2) To protect and preserve the waterway from any substance or act which would render the water unfit for the purposes of the district.
- (3) To prohibit any person or entity from abandoning, sinking, allowing to be sunk, or failing to remove any watercraft in or on the waterway.
- (4) To prohibit any person or entity from erecting, locating, constructing, or using any building or structures within the district that may threaten the purposes of the district until a permit has been approved by the board.
- (5) To prohibit any person from knowingly or willfully emptying or draining or permitting to be drained from any pump, reservoir, well or oil field into the waterway any oil, salt water, or other noxious, toxic, hazardous, or poisonous gas, liquid, or substance which would render the waterway unfit for the purposes of the district or for human consumption or would destroy the aquatic and fish life in the waterway.
- (6) To regulate the conduct, management, and control of its operations, functions, and its structures and facilities.
- (7) To protect, property, life, and the welfare of its employees and the public.
- (8) To control, use, and protect its property, equipment, and other facilities and improvements.
- (9) To control, regulate, and protect the channel and banks of the waterway from certain actions.
- (10) To control and regulate the pumping of or flowing of water into the waterway.

Proposed law provides that upon a declaration of emergency by the board, the board may create a "no wake zone" or limit the size of vessels permitted to travel on certain areas of the waterway until there is no emergency.

Proposed law prohibits the board from making and enforcing rules, regulations, and ordinances that impair the rights and obligations in C.C. Arts. 655 and 656, or that affect any agriculture drainage established prior to the creation of the district.

Proposed law provides that all the rules, regulations, and ordinances enacted by the board will be enforceable by any local law enforcement agency having jurisdiction in the district and shall be prosecuted by the district attorney in the judicial district where the violation occurred. Further provides that any penalties may include a fine not to exceed \$500 or imprisonment not to exceed six months, or both.

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

(Amends R.S. 38:3086.21 and 3086.24)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Deletes authority for district to acquire property by "otherwise" means.
2. Adds provision to prohibit board from making and enforcing rules that affect certain water drainage rights.