

2017 Regular Session

HOUSE BILL NO. 623

BY REPRESENTATIVE HILFERTY

DISTRICTS/PUBLIC IMPROVE: Creates the New Orleans Street Maintenance District in the city of New Orleans

1 AN ACT

2 To enact Subpart M of Part I of Chapter 7 of Title 33 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 33:3675.51, relative to the city of New Orleans; to
4 create the New Orleans Street Maintenance District; to provide relative to the
5 boundaries, purpose, governance, and funding of the district, including the authority
6 to levy a hotel occupancy and a food and beverage tax; to provide relative to the
7 powers and duties of the district and its governing board; and to provide for related
8 matters.

9 Notice of intention to introduce this Act has been published
10 as provided by Article III, Section 13 of the Constitution of
11 Louisiana.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Subpart M of Part I of Chapter 7 of Title 33 of the Louisiana Revised
14 Statutes of 1950, to be comprised of R.S. 33:3675.51, is hereby enacted to read as follows:

15 SUBPART M. NEW ORLEANS STREET MAINTENANCE DISTRICT

16 §3675.51. New Orleans Street Maintenance District

17 A. Creation. There is hereby created within the city of Orleans, as more
18 specifically provided in Subsection B of this Section, a body politic and corporate
19 which shall be known as the New Orleans Street Maintenance District, referred to

1 in this Section as the "district". The district shall be a political subdivision of the
2 state as defined in the Constitution of Louisiana.

3 B. Boundaries. The boundaries of the district are coterminous with the
4 boundaries of the city of New Orleans.

5 C. Purpose. The district is established for the primary object and purpose of
6 providing supplemental maintenance, repair, and upkeep to the streets and alleyways
7 and related infrastructure of the district in order to achieve the overall betterment of
8 the district and to improve the quality of life of the residents of the district.

9 D. Governance. (1) The district shall be governed by a board of nine
10 commissioners, referred to in this Section as the "board", consisting of members as
11 follows:

12 (a) The members of the Louisiana House of Representatives and the
13 Louisiana Senate who represent the area which comprises New Orleans City Council
14 District A shall jointly appoint one member.

15 (b) The members of the Louisiana House of Representatives and the
16 Louisiana Senate who represent the area which comprises New Orleans City Council
17 District B shall jointly appoint one member.

18 (c) The members of the Louisiana House of Representatives and the
19 Louisiana Senate who represent the area which comprises New Orleans City Council
20 District C shall jointly appoint one member.

21 (d) The members of the Louisiana House of Representatives and the
22 Louisiana Senate who represent the area which comprises New Orleans City Council
23 District D shall jointly appoint one member.

24 (e) The members of the Louisiana House of Representatives and the
25 Louisiana Senate who represent the area which comprises New Orleans City Council
26 District E shall jointly appoint one member.

27 (f) The mayor of the city of New Orleans shall appoint two members, one
28 of whom shall be a representative of the city's public works department, and one of
29 whom shall be a representative of the New Orleans Sewerage and Water Board.

1 (g) The governing board of the New Orleans Regional Planning Commission
2 shall appoint one member.

3 (h) The governing board of the Louisiana Associated General Contractors
4 shall appoint one member.

5 (2)(a) The members of the board shall serve four-year terms after serving
6 initial terms as follows: two members shall serve an initial term of one year, two
7 members shall serve an initial term of two years, two members shall serve an initial
8 term of three years, and three members shall serve an initial term of four years, as
9 determined by lot at the first meeting of the board.

10 (b) Any vacancy which occurs prior to the expiration of the term for which
11 a member of the board has been appointed shall be filled for the remainder of the
12 unexpired term in the same manner as the original appointment. Board members
13 shall be eligible for reappointment.

14 (3) The board shall elect from its members a chairman, a vice chairman, a
15 secretary, a treasurer, and such other officers as it may deem necessary. The duties
16 of the officers shall be fixed by the bylaws adopted by the board.

17 (4) The board shall adopt such rules and regulations as it deems necessary
18 or advisable for conducting its business affairs. Rules and regulations of the board
19 relative to the notice and conduct of meetings shall conform to applicable law,
20 including laws relative to open meetings. The board shall hold regular meetings as
21 shall be provided for in the bylaws and may hold special meetings at such times and
22 places within the district as may be prescribed in the bylaws.

23 (5) The board shall keep minutes of all meetings and shall make them
24 available through the secretary of the board to residents of the district.

25 (6) The monies, funds, and accounts of the district shall be in the official
26 custody of the board.

27 (7) A majority of the members of the board shall constitute a quorum for the
28 transaction of business.

29 (8) The members of the board shall serve without compensation.

1 E. Powers and duties. The district, acting through the board, shall have the
2 following powers and duties:

3 (1) To sue and be sued.

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

5 (3) To receive and expend funds collected pursuant to Subsection F of this
6 Section and in accordance with a budget adopted as provided by Subsection H of this
7 Section.

8 (4) To enter into contracts with individuals or entities, private or public.

9 (5) To purchase or lease items and supplies which the board deems
10 instrumental to achieving the purposes of the district.

11 (6) To perform or have performed any other function or activity necessary
12 for the achievement of the purposes of the district.

13 (7) To procure and maintain liability insurance against any personal or legal
14 liability of a board member that may be asserted or incurred based upon his service
15 as a member of the board or that may arise as a result of his actions taken within the
16 scope and discharge of his duties as a member of the board.

17 F. Funding. (1)(a) The district, through the board, may levy and collect,
18 within the boundaries of the district, a tax of one percent on the occupancy of hotel
19 rooms located in the district. The word "hotel" shall mean and include any
20 establishment engaged in the business of furnishing or providing rooms intended or
21 designed for dwelling, lodging, or sleeping purposes to transient guests, where such
22 establishment consists of ten or more guest rooms. "Hotel" does not include any
23 hospital, convalescent or nursing home, or sanitarium, or hotel-like facility operated
24 by or in connection with a hospital or medical clinic providing room exclusively for
25 patients and their families.

26 (b) The tax shall be paid by the person who exercises or is entitled to
27 occupancy of the hotel room, and shall be paid at the time the rent or fee for
28 occupancy is paid. "Person" as used in this Subsection shall have the same definition
29 as that contained in R.S. 47:301(8).

1 (c) The tax shall not apply to the rent for a hotel room rented to the same
2 occupant for a period of thirty or more consecutive calendar days, nor shall it apply
3 to hotel rooms rented for less than three dollars a day.

4 (2)(a) In addition to the tax on the occupancy of hotels authorized in
5 Paragraph (1) of this Subsection, the district may levy and collect, within the
6 boundaries of the district, a tax on food and beverages sold by any food service
7 establishment, as defined in this Paragraph, located within the boundaries of the
8 district or in any airport or air transportation facility owned and operated by the city
9 of New Orleans, excluding any food service establishment owned by any individual
10 or corporation that had gross annual receipts of less than five hundred thousand
11 dollars from the operation of all such establishments during the calendar year prior
12 to the year in which the food and beverage tax is assessed.

13 (b) The food and beverage tax shall be in the amount of one-fourth percent
14 of gross receipts from the sales of goods and beverages by said food service
15 establishments; such tax shall be paid by the person who purchases such food or
16 beverage and shall be paid at the time that the charge for the food or beverage is
17 paid.

18 (c) The words "food service establishment" shall mean any fixed or mobile
19 restaurant; coffee shop; cafeteria; short order café; luncheonette; grill; tearoom;
20 sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; roadside
21 stand; industrial feeding establishment; private, public, or nonprofit organization or
22 institution routinely serving food; catering kitchen; commissary; delicatessen;
23 convenience store; grocery store; or similar place in which food or drink is prepared
24 for sale or for service on the premises or elsewhere; and any other establishment or
25 operation where food or drink is served or provided for the public. However, the
26 additional food and beverage tax shall not apply to meals furnished to any of the
27 following: the staff and students of educational institutions, including kindergartens
28 and pre-kindergartens; the staff and patients of hospitals; the staff, inmates, and
29 patients of mental institutions; and the boarders of rooming houses. Such food and

1 beverage tax also shall not apply to occasional meals furnished in connection with
2 or by educational, religious, or medical organizations if the meals are consumed on
3 the premises where purchased. However, sales by any such institution or
4 organization in facilities open to outsiders or to the general public are not exempt
5 from the food and beverage tax authorized by this Paragraph.

6 (3) The district shall impose the hotel occupancy tax and the food and
7 beverage tax authorized in this Subsection by resolutions adopted by the board who
8 shall have the right to provide in the resolutions necessary and appropriate rules and
9 regulations for the imposition, collection, and enforcement of such taxes, including
10 rules relative to issuance of tax exemption certificates for the food and beverage tax.

11 (4) The district may contract with the state of Louisiana or the city of New
12 Orleans, or both, for the collection of the hotel occupancy and food and beverage
13 taxes authorized in this Section.

14 (5) The proceeds of the taxes shall be used solely and exclusively for the
15 purpose and benefit of the district.

16 G. Additional contributions. The district is authorized to solicit and accept
17 additional voluntary contributions and grants to further the purposes of the district.

18 H. Budget. (1) The board shall adopt an annual budget in accordance with
19 the Local Government Budget Act, R.S. 39:1301 et seq.

20 (2) The district shall be subject to audit by the legislative auditor pursuant
21 to R.S. 24:513.

22 I. Miscellaneous. (1) It is the purpose and intent of this Section that any
23 additional maintenance, repair, and upkeep to the streets and alleyways and related
24 infrastructure provided by the district shall be supplemental to and not be in lieu of
25 services to be provided in the district by the state of Louisiana or the city of New
26 Orleans or their departments or agencies or by other political subdivisions.

27 (2) If the district ceases to exist, all funds of the district shall be transmitted
28 by the board to the city of New Orleans, and such funds, together with any other
29 funds collected by the city of New Orleans pursuant to this Section, shall be

1 maintained in a separate account by the city and shall be used only to maintenance,
 2 repair and upkeep to the streets and alleyways and related infrastructure of the
 3 district.

4 J. Indemnification and exculpation. (1) The district shall indemnify its
 5 officers and board members to the fullest extent permitted by R.S. 12:227, as fully
 6 as if the district were a nonprofit corporation governed thereby, and as may be
 7 provided in the district's bylaws.

8 (2) No board member or officer of the district shall be liable to the district
 9 or to any individual who resides, owns property, visits, or otherwise conducts
 10 business in the district for monetary damages for breach of his duties as a board
 11 member or officer, provided that the foregoing provision shall not eliminate or limit
 12 the liability of a board member or officer for any of the following:

13 (a) Acts or omissions not in good faith or which involve intentional
 14 misconduct or a knowing violation of law.

15 (b) Any transaction from which he derived an improper personal benefit.

16 (3) To the fullest extent permitted by R.S. 9:2792 et seq., including R.S.
 17 9:2792.1 through 2792.9, a person serving the district as a board member or officer
 18 shall not be individually liable for any act or omission arising out of the performance
 19 of his duties.

20 Section 2. This Act shall become effective on January 1, 2018.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 623 Original

2017 Regular Session

Hilferty

Abstract: Creates the New Orleans Street Maintenance District to aid in the maintenance, repair, and upkeep of the streets and alleyways and related infrastructure in the city of New Orleans.

Proposed law creates the New Orleans Street Maintenance District as a political subdivision of the state to provide supplemental maintenance, repair, and upkeep to the streets and alleyways and related infrastructure of the district. Provides that the district's boundaries are conterminous with the boundaries of the city of New Orleans.

Proposed law provides that the district is governed by a nine-member board composed as follows:

- (1) Five members, each one appointed jointly by the members of the La. House of Representatives and the La. Senate who represent the area which comprises each of the five New Orleans city council districts.
- (2) Two members appointed by the mayor of the city of New Orleans, one of whom must be a representative of the city's public works department, and one of whom must be a representative of the New Orleans Sewerage and Water Board.
- (3) One member appointed by the governing board of the New Orleans Regional Planning Commission.
- (4) One member appointed by the La. Associated General Contractors.

Proposed law provides that members serve five-year staggered terms without compensation. Requires the board to elect from its members a chairman, a vice chairman, a secretary, a treasurer, and such other officers as it may deem necessary. Proposed law further requires the board to adopt such rules and regulations as it deems necessary or advisable for conducting its business affairs.

Proposed law provides for the powers and duties of the board, including but not limited to the following:

- (1) To sue and be sued.
- (2) To enter into contracts with individuals or entities, private or public.
- (3) To purchase or lease items and supplies which the board deems instrumental to achieving the purposes of the district.
- (5) To procure and maintain liability insurance against any personal or legal liability of a board member that may be asserted or incurred based upon his service as a member of the board.

Proposed law authorizes the district, by resolution of the board, to levy and collect a 1% hotel occupancy tax (hotels with 10 or more guests rooms) and a food and beverage tax of 1/4% on the gross receipts from the sales of goods and beverages by any food service establishment or in any airport or air transportation facility owned and operated by the city of New Orleans. Proposed law excludes any food service establishment owned by any individual or corporation that had gross annual receipts of less than \$500,000 during the calendar year prior to the year in which the food and beverage tax is assessed.

Proposed law authorizes the district to solicit voluntary contributions and grants to further district purposes.

Proposed law requires the board to adopt an annual budget in accordance with the Local Government Budget Act and provides that the district shall be subject to audit by the legislative auditor.

Proposed law provides that it is the purpose and intent of proposed law that the additional maintenance, repair, and upkeep to the streets and alleyways and related infrastructure provided by the district pursuant to proposed law shall be supplemental to and not in lieu of services to be provided by the state of La. or the city of New Orleans or their departments or agencies or by other political subdivisions. Requires the board to transmit all funds of the district to the city of New Orleans if the district ceases to exist. Provides further with respect to the management of the funds by the city.

Proposed law requires the district to indemnify its officers and board members to the fullest extent permitted by present law (relative to indemnification of officers, directors, employees, and agents of nonprofit corporations) as fully as if the district were a nonprofit corporation governed thereby and as may be provided in district bylaws. Provides that no board member or officer shall be liable to the district or to any individual who resides, owns property, visits, or otherwise conducts business in the district for monetary damages for breach of duties; however, provides that this shall not eliminate or limit the liability of a board member or officer for:

- (1) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.
- (2) Any transaction from which he derived an improper personal benefit.

Proposed law provides that a board member or officer shall be not individually liable for any act or omission arising out of the performance of his duties to the fullest extent permitted by present law relative to limitation of liability of directors, officers, and trustees of certain organizations and districts.

Effective January 1, 2018.

(Adds R.S. 33:3675.51)