

2018 Regular Session

HOUSE BILL NO. 791

BY REPRESENTATIVE STEVE CARTER

DISTRICTS/PUBLIC IMPROVE: Provides for the creation of multiparish taxing districts for the purpose of funding highway improvements

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 777, relative to transportation infrastructure  
4 development; to create the Capital Area Road and Bridge District as a multiparish  
5 political subdivision; to provide for the jurisdiction, governance, powers, and  
6 operations of the district; to authorize the district to levy sales and use taxes subject  
7 to voter approval; to authorize the district to incur debt; to provide for inclusion of  
8 district infrastructure projects in the state highway system; and to provide for related  
9 matters.

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

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Part VIII of Chapter 2 of Title 48 of the Louisiana Revised Statutes of  
15 1950, comprised of R.S. 48:771 through 777, is hereby enacted to read as follows:

16 PART VIII. CAPITAL AREA ROAD AND BRIDGE DISTRICT

17 §771. Capital Area Road and Bridge District; creation; territorial jurisdiction;  
18 purpose

19 A. There is hereby created a body politic and corporate of the state known  
20 as the Capital Area Road and Bridge District, referred to in this Part as the "district".

1           B. The district shall be composed of all of the territory within the parish  
2           boundaries of East Baton Rouge, West Baton Rouge, Ascension, Iberville, and  
3           Livingston.

4           C. The district shall be a political subdivision of the state as defined in  
5           Article VI, Section 44 of the Constitution of Louisiana. Pursuant to Article VI,  
6           Section 19 of the Constitution of Louisiana, the district, acting through its board of  
7           commissioners, is hereby granted all of the rights, powers, privileges, and  
8           immunities accorded by law and the Constitution of Louisiana to political  
9           subdivisions of the state, including but not limited to the power of taxation, the  
10           power to incur debt and issue revenue bonds, certificates of indebtedness, bonds and  
11           certificate anticipation notes, and refunding bonds, and the power of taxation, subject  
12           to the limitations provided in this Part.

13           D. The district is established for the primary object and purpose of  
14           developing transportation infrastructure as more specifically provided by R.S.  
15           48:775(B), which will enhance the transportation network, reduce congestion and  
16           pollution, and improve the economic competitiveness of the region.

17           §772. Board of commissioners; members; officers; employees

18           A. The district shall be governed by a board of commissioners, referred to  
19           in this Part as the "board", consisting of five members. The governing authority of  
20           each parish included in the district shall appoint one member of the board.

21           B. Each member appointed to the board shall be a citizen of the United  
22           States and a domiciliary of and qualified voter in the parish he represents for at least  
23           one year preceding the date of his appointment and during the entirety of his term of  
24           office.

25           C.(1) Members of the board shall serve terms of four years after initial terms  
26           as provided in Paragraph (2) of this Subsection.

27           (2)(a) Members of the board shall serve initial terms as follows:

28           (i) One member shall serve a term of one year.

29           (ii) One shall serve two years.

1           (iii) One shall serve three years.

2           (iv) Two shall serve four years.

3           (b) The initial terms provided for in Subparagraph (a) of this Paragraph shall  
4 be determined by lot at the first meeting of the board.

5           D. Any member who misses fifty percent of the board's meetings, regular  
6 and special, in any calendar year shall be disqualified and removed automatically  
7 from the board, unless those absences are deemed allowable pursuant to the board's  
8 bylaws. That person's position shall be vacant as of the first day of the succeeding  
9 calendar year. The former member shall not be eligible for reappointment until  
10 expiration of the balance of the vacated term.

11           E.(1) Any vacancy in the membership of the board shall be filled in the same  
12 manner as the original appointment, for the remainder of the unexpired term, within  
13 thirty days after receipt by the parish governing authority of written notification from  
14 the board of the vacancy.

15           (2) If a vacancy is not filled within thirty days after receipt of written  
16 notification of the vacancy, the board shall appoint an interim successor to serve on  
17 the board until the position is filled by the appropriate parish governing authority.

18           F. Members of the board shall serve without compensation. The board may  
19 reimburse any member for expenses actually incurred in the performance of his  
20 duties pursuant to this Part.

21           G. The board shall elect yearly from its number a chairman, vice chairman,  
22 secretary, and treasurer and establish their duties as may be regulated by rules  
23 adopted by the board. The offices of secretary and treasurer may be held by the  
24 same person.

25           H. The board shall meet in regular session not less than quarterly and also  
26 shall meet in special session as convened by the president or upon written notice of  
27 two members.

28           I. A majority of the board members, not including vacancies, shall constitute  
29 a quorum.

1           J. All actions of the board shall be approved by the affirmative vote of a  
2           majority of the members present and voting. However, no action of the board shall  
3           be authorized on the following matters unless approved by a majority of the total  
4           board membership:

5           (1) Adoption of bylaws and other rules and regulations for conduct of the  
6           district's business.

7           (2) Hiring or firing of the district's chief executive officer.

8           (3) The incurring of funded, general, or bonded debt, levy of taxes, and call  
9           for any tax or other election.

10          (4) Adoption or amendment of the annual budget.

11          (5) Sale, lease, or alienation of immovable property or improvements.

12          K. Vote by proxy is prohibited. Any member may request a recorded vote  
13          on any resolution or action of the district.

14          L. The board shall cause minutes and a record to be kept of all its  
15          proceedings and publish such minutes and such official notices as are required by  
16          law in its official journal, which shall be the official journal of the governing  
17          authority of East Baton Rouge Parish.

18          §773. Governmental functions

19          A. The exercise by the board of the powers conferred by this Part shall be  
20          deemed and held to be essential governmental functions of the state as the exercise  
21          of such powers shall be in all respects for the benefit of the people of the district and  
22          the state of Louisiana and for the increase of their commerce and prosperity.

23          B. Neither the district nor any subdistrict created by the board shall be  
24          required to pay any taxes, including but not limited to sales and use, ad valorem,  
25          occupational license, income, or any other taxes of any kind or nature or any  
26          assessment upon property acquired or used by the district pursuant to this Part or  
27          upon the income therefrom.

28          C.(1) Any bonds issued pursuant to this Part and the income therefrom shall  
29          be exempt from taxation by the state or political subdivision of the state.

1           (2) No bonds, other debt obligations, or contracts of the district or of any  
2           subdistrict shall be a charge upon the income, property, or revenue of the parishes  
3           within its boundaries, nor shall any obligations of the district or of any subdistrict be  
4           obligations of the parishes.

5           D. Neither the district nor any subdistrict created by the board shall be  
6           deemed to be a public utility or subject in any respect to the authority, control,  
7           regulation, or supervision of the Louisiana Public Service Commission or of any  
8           other regulatory body of the state or of any political subdivision thereof.

9           §774. Powers

10           A. In addition to the powers and duties elsewhere granted in this Part, the  
11           board may exercise all powers necessary or convenient for the development of  
12           transportation infrastructure specified in R.S. 48:775(B), including but not limited  
13           to the following:

14                   (1) To sue and be sued, and as such to stand in judgment.

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

16                   (3) To acquire by gift, grant, purchase, lease, or otherwise, and to hold and  
17           use, any property, movable or immovable, tangible or intangible, or any interest  
18           therein necessary or desirable for carrying out the objects and purposes of the  
19           district.

20                   (4) To sell, transfer, and convey any property acquired by it, or any interest  
21           therein, at any time, to accomplish the objects and purposes of the district.

22                   (5) To lease or sublease all or any portion of any property for a term not  
23           exceeding ninety-nine years at a fixed or variable rental rate without advertisement  
24           for public bids.

25                   (6) To donate by fee simple title or otherwise to convey to the United States,  
26           the state, or to any political subdivision of the state any land, property, right-of-way,  
27           easement, servitude, or other thing of value, which the district may own or acquire,  
28           for use by such governmental entity to accomplish the objects and purposes of the  
29           district.

1           (7) To enter into contracts to achieve the district's objects and purposes,  
2           including but not limited to contracts for professional and other services and for the  
3           purchase, lease, acquisition, sale, construction, operation, maintenance, and  
4           improvements of land, public works, and facilities, as the district may deem  
5           necessary or convenient to accomplish the objects and purposes of the district.

6           (8) To plan, develop, regulate, operate, and maintain activities and planned  
7           land uses to foster the development of transportation infrastructure and other  
8           functions and activities on property owned or leased by the district to accomplish the  
9           objects and purposes of the district.

10           (9) To issue revenue bonds, borrow money, and issue certificates of  
11           indebtedness, notes, and other debt obligations as evidence thereof, without election,  
12           and to provide for the manner and method of repayment including the pledge of all  
13           or part of its revenues, leases, rents, and other advantages as security for such loans.

14           (10) To develop, activate, construct, exchange, acquire, improve, repair,  
15           operate, maintain, lease, mortgage, sell, subject to the provisions of this Part, and  
16           pledge movable and immovable property, servitudes, and facilities as the district may  
17           deem necessary or appropriate, including activities related to infrastructure planning  
18           and construction, notwithstanding the limitations of R.S. 2:131.1 and 135.1, and  
19           Chapter 4 of Title 2, Chapter 13 of Title 33, and Chapter 10 of Title 41, all of the  
20           Louisiana Revised Statutes of 1950.

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

23           (13) To enter into cooperative endeavors as authorized by Article VII,  
24           Section 14(C) of the Constitution of Louisiana.

25           B. The district, or any subdistrict created by the board, shall not be deemed  
26           to be an instrumentality of the state for purposes of Article X, Section 1(A) of the  
27           Constitution of Louisiana.

28           C. The district may create subdistricts as provided in this Subsection. The  
29           district shall publish notice of its intent to create a subdistrict in the official journal

1 of the district. At least ten days after publication of such notice in the official journal  
2 of the district, the board shall conduct a public hearing on the question of creating  
3 such subdistrict. Thereafter, the board may designate one or more project areas  
4 within the boundaries of the district as a subdistrict of the district. Each subdistrict  
5 shall constitute a political subdivision of the state and shall be governed by the  
6 board. Each subdistrict shall have the same powers as the district and shall be given  
7 a name and designated as "Capital Area Road and Bridge Subdistrict No. \_\_\_\_".

8 §775. Funding of the district

9 A.(1) The board may levy and cause to be collected a sales and use tax not  
10 to exceed one percent within the territorial jurisdiction of the district.

11 (2) Any tax levied pursuant to this Section shall be in addition to all other  
12 taxes which any other political subdivision within the district is authorized to levy  
13 and shall not limit in any respect the taxing authority granted to any other political  
14 subdivision.

15 (3) The sales and use tax so levied shall be imposed by resolution of the  
16 district and shall be levied upon the sale at retail, the use, lease, or rental, the  
17 consumption and the storage for consumption of corporeal movable property, and on  
18 sales of services in the district, all as defined in Chapter 2 of Subtitle II of Title 47  
19 of the Louisiana Revised Statutes of 1950. However, the resolution imposing the tax  
20 shall be adopted by the governing authority of the district only after the question of  
21 the imposition of the tax has been submitted to the qualified electors of the district  
22 at an election held for that purpose and conducted in accordance with the Louisiana  
23 Election Code and the majority of those voting in each parish comprising the district  
24 have voted in favor of the imposition of the tax.

25 (4) This tax shall be collected at the same time and in the same manner as  
26 set forth in Chapter 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes  
27 of 1950.

28 B. The proceeds of any tax levied pursuant to Subsection A of this Section  
29 shall be used to pay costs incurred in the construction and related matters of a new

1 Mississippi River Bridge, the Louisiana Highway 1/Louisiana Highway 415  
2 connector, and the connection to and widening of Louisiana Highway 30 within the  
3 district boundaries, which costs may include the following:

4 (1) Costs of studies, surveys, development of plans and specifications,  
5 preparation, implementation and administration, personnel and professional services  
6 costs for architectural, engineering, legal, marketing, financial, planning, police, fire,  
7 public works or other services incurred by the district directly or on behalf of the  
8 district. No charges for professional services may be based on a percentage of tax  
9 revenues.

10 (2) Property acquisition and assembly costs, including but not limited to  
11 acquisition of land and other immovable or movable property or rights or interests  
12 therein, incurred by the district directly or on behalf of the district.

13 (3) On- and off-site preparation costs, including but not limited to clearance  
14 of any area by demolition or removal of any existing buildings, structures, fixtures,  
15 utilities, and improvements and clearing and grading and including installation,  
16 repair, construction, reconstruction, or relocation of public streets, public utilities,  
17 and other public improvements incurred by the district directly or on behalf of the  
18 district.

19 (4) Costs of renovation, rehabilitation, relocation, repair, or remodeling of  
20 any existing buildings, improvements, and fixtures.

21 (5) Costs of construction of public improvements, including but not limited  
22 to buildings, structures, works, utilities, or fixtures, incurred by the district directly  
23 or on behalf of the district.

24 (6) Financing costs of the district, including but not limited to all necessary  
25 and incidental expenses related to the issuance of obligations, payment of any  
26 interest on any obligations which accrues during the estimated period of construction  
27 for which such obligations are issued and thereafter, and any reasonable reserves  
28 related to the issuance of such obligations.

1           C. The levy and collection of any tax levied by the district shall terminate  
2           immediately following the retirement of all debt and obligations attributable to  
3           projects included in the proposition authorizing its levy.

4           D. Notwithstanding any provision of law to the contrary, the governing  
5           authority of the district may undertake highway construction projects financed  
6           entirely or partially with district funds on highways that are within the state highway  
7           system as specifically provided in Subsection B of this Section. Such projects,  
8           however, are subject to the following:

9                   (1) Only projects that are funded by proceeds of a tax levied pursuant to  
10                  Subsection A of this Section may be undertaken pursuant to this Section.

11                  (2) All work shall be done in accordance with and the completed project  
12                  shall meet all applicable standards of the Department of Transportation and  
13                  Development.

14                  (3) The plans for any such project are subject to review and approval by the  
15                  chief engineer of the department, who shall, within thirty days after submission,  
16                  review and approve or propose changes to plans submitted by the district.

17                  (4) The district may proceed with the design and construction portions of the  
18                  project when it deems appropriate subject to approval provided for in Paragraph (3)  
19                  of this Subsection. However, the construction phase shall be coordinated with the  
20                  department so as to minimize disruption of the flow of traffic on and near the site of  
21                  the project, taking into consideration any other projects the department may be  
22                  executing at the same time and rules and regulations of the department.

23                  (5) Upon completion of the project, the section of highway shall be  
24                  maintained by the department under the same terms and conditions as apply to any  
25                  other portion of the state highway system.

26           §776. Revenue bonds; securities

27                  A. In addition to the authority contained in this Part, the district, or any  
28                  subdistrict created by the district, may issue revenue bonds in order to facilitate the

1        development of transportation infrastructure within the district, including all related  
2        activities, as provided in R.S. 48:775(B).

3                B. Bonds issued pursuant to this Section shall be authorized by resolution of  
4        the board and shall be limited to obligations of the district, or any subdistrict created  
5        by the board. Any refunding bonds issued pursuant to this Section shall be payable  
6        from any source or from the investment of any of the proceeds of the refunding  
7        bonds authorized pursuant to this Section, shall not constitute an indebtedness or  
8        pledge of the general credit of the district, or any subdistrict created by the board,  
9        within the meaning of any constitutional or statutory limitation of indebtedness, and  
10       shall contain a recital to that effect. Bonds of the district, or any subdistrict created  
11       by the board, shall be issued in such form, shall be in such denominations, shall bear  
12       interest, and shall mature in such manner and be executed by one or more members  
13       of the board of the body as provided in the resolutions authorizing the issuance  
14       thereof. Such bonds may be subject to redemption at the option of and in the manner  
15       determined by the board in the resolution authorizing the issuance thereof.

16               C. No bonds or other evidence of indebtedness may be issued pursuant to  
17       this Section without the prior approval of the State Bond Commission of the terms  
18       and provisions thereof.

19               D. Bonds issued pursuant to this Section shall be issued, sold, and delivered  
20       in accordance with the terms and provisions of a resolution to be adopted by the  
21       board. The resolution shall be published in the official journal of the district, and for  
22       a period of thirty days after said publication, any interested citizen may bring an  
23       action to contest the bonds and the security therefor, as provided in Article VI,  
24       Section 35(B) of the Constitution of Louisiana. If, after the expiration of thirty days,  
25       no suit has been filed, the issuance, sale, and security of the bonds shall be  
26       incontestable, and no court shall have authority to entertain any action questioning  
27       or contesting such matters.

28               E. Bonds, certificates, or other evidence of indebtedness issued by the  
29       district, or any subdistrict created by the board, pursuant to this Part are deemed to

1 be securities of public entities within the meaning of Chapters 13 and 13-A of Title  
 2 39 of the Louisiana Revised Statutes of 1950, and shall be subject to defeasance in  
 3 accordance with the provisions of Chapter 14 of Title 39 of the Louisiana Revised  
 4 Statutes of 1950, and may be refunded in accordance with the provisions of Chapters  
 5 14-A and 15 of Title 39 of the Louisiana Revised Statutes of 1950, and may also be  
 6 issued as short-term revenue notes of a public entity under Chapter 15-A of Title 39  
 7 of the Louisiana Revised Statutes of 1950.

8 §777. General compliances; enhancement

9 A. No provision of this Part shall be construed so as to exempt the district,  
 10 or any subdistrict created by the board, from compliance with the provisions of  
 11 Louisiana laws pertaining to open meetings, public records, fiscal agents, official  
 12 journals, dual officeholding and employment, public bidding for the purchase of  
 13 supplies and materials and construction of public works, the Code of Governmental  
 14 Ethics, the Right to Property in Article I, Section 4 of the Constitution of Louisiana,  
 15 and the Louisiana Election Code.

16 B. The board shall have the power and right to adopt a program or programs  
 17 awarding contracts to, and establishing set-aside goals and preference procedures for  
 18 the benefit of, businesses owned and operated by socially or economically  
 19 disadvantaged persons in accordance with any of the provisions of R.S. 38:2233 and  
 20 the Louisiana Minority and Women's Business Enterprise Act.

21 C. The financial records of the district, or any subdistrict created by the  
 22 board, shall be audited pursuant to R.S. 24:513.

23 D. This Part shall be liberally construed to affect the purposes thereof.

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#### 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)]

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HB 791 Original

2018 Regular Session

Steve Carter

**Abstract:** Creates a special taxing district in E. Baton Rouge, W. Baton Rouge, Ascension, Iberville, and Livingston parishes with authority to levy a 1% sales tax to fund

specified highway construction projects which include a new Mississippi River Bridge.

Proposed law creates the Capital Area Road and Bridge District, hereinafter referred to as the "district", as a political subdivision of the state composed of all of the territory within the parish boundaries of E. Baton Rouge, W. Baton Rouge, Ascension, Iberville, and Livingston. The district is created to undertake specific transportation infrastructure projects: a new Mississippi River Bridge, the La. Hwy. 1/La. Hwy. 415 connector, and the connection to and widening of La. Hwy. 30, all within the district.

Proposed law provides for governance of the district by a board of commissioners comprised of five members, one appointed by the governing authority of each parish in the district. Provides that members serve four-year terms. Provides that a vacancy is filled in the same manner as the original appointment for the remainder of the unexpired term; if the appointing authority does not fill the vacancy within 30 days, requires the board to appoint an interim successor to serve until the position is filled by the parish governing authority. Prohibits compensation of board members but authorizes reimbursement of expenses. Provides for the selection of officers. Provides that board action on the following requires approval by a majority of the total board membership:

- (1) Adoption of bylaws and other rules and regulations for conduct of the district's business.
- (2) Hiring or firing of the district's chief executive officer.
- (3) The incurring of funded, general, or bonded debt, levy of taxes, and call for any tax or other election.
- (4) Adoption or amendment of the annual budget.
- (5) Sale, lease, or alienation of immovable property or improvements.

Proposed law provides that the official journal of the district is the same as the official journal of the governing authority of E. Baton Rouge Parish.

Proposed law authorizes the district to create subdistricts which have the same powers as the district itself.

Proposed law provides that the actions of the district are essential governmental functions and that the district and bonds issued by the district are exempt from taxation.

Proposed law authorizes the district, subject to the approval of the voters in each parish of the district, to levy a sales and use tax not to exceed 1%. Authorizes use of the proceeds of the tax for costs related to the transportation infrastructure projects that the district is authorized to undertake. Such related costs include:

- (1) Costs of studies, surveys, development of plans and specifications, preparation, implementation and administration, personnel and professional services costs for architectural, engineering, legal, marketing, financial, planning, police, fire, public works or other services incurred by the district directly or on behalf of the district. Proposed law prohibits basing charges for professional services on a percentage of tax revenues.
- (2) Property acquisition and assembly costs, including acquisition of land and other immovable or movable property or rights or interests therein.
- (3) On- and off-site preparation costs, including clearance of any area by demolition or removal of any existing buildings, structures, fixtures, utilities and improvements

- and clearing and grading and including without limitation installation, repair, construction, reconstruction, or relocation of public streets, public utilities, and other public improvements.
- (4) Costs of renovation, rehabilitation, relocation, repair, or remodeling of any existing buildings, improvements, and fixtures.
  - (5) Costs of construction of public improvements, including but not limited to buildings, structures, works, utilities, or fixtures.
  - (6) Financing costs of the district, including all necessary and incidental expenses related to the issuance of obligations, payment of any interest on any obligations which accrues during the estimated period of construction for which such obligations are issued and thereafter, and any reasonable reserves related to the issuance of such obligations.

Proposed law requires that the levy and collection of the sales and use tax terminate immediately following the retirement of all debt and obligations attributable to projects included in the proposition authorizing its levy.

Proposed law authorizes the district to undertake highway construction projects financed entirely or partially with district funds on the specified highways which are within the state highway system. Provides that such projects are subject to the following:

- (1) Only projects that are funded by proceeds of a tax levied pursuant to proposed law may be undertaken.
- (2) All work must be done in accordance with and the completed project must meet all applicable standards of the Dept. of Transportation and Development.
- (3) The plans for any such project are subject to review and approval by the chief engineer of the department, who must, within 30 days after submission, review and approve or propose changes to plans submitted by the district.
- (4) The district may proceed with the design and construction portions of the project when it deems appropriate subject to approval by the chief engineer; however, the construction phase must be coordinated with the department so as to minimize disruption of the flow of traffic on and near the site of the project, taking into consideration any other projects the department may be executing at the same time and rules and regulations of the department.
- (5) Upon completion of the project, the section of highway must be maintained by the department under the same terms and conditions as apply to any other portion of the state highway system.

Proposed law authorizes the district to issue revenue bonds, subject to the approval of the State Bond Commission, and provides with respect to such bonds and other debt of the district.

(Adds R.S. 48:771-777)