

2019 Regular Session

HOUSE BILL NO. 429

BY REPRESENTATIVES STEVE CARTER, BILLIOT, DAVIS, GLOVER, HUVAL,
JENKINS, LYONS, MARCELLE, NORTON, SMITH, STAGNI, AND WRIGHT
AND SENATOR GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DISTRICTS/ECONOMIC DEVEL: Authorizes the creation of cooperative economic development districts affiliated with Louisiana public postsecondary education institutions

1 AN ACT

2 To enact R.S. 33:9038.72, relative to cooperative economic development in and around
3 public postsecondary education institutions; to authorize parish and municipal
4 governing authorities to create special taxing districts for such purposes; to provide
5 for the governance and powers and duties of such a district, including the authority
6 to levy taxes and special assessments; to authorize such a district to incur debt and
7 to pledge tax increments to repayment thereof; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 33:9038.72 is hereby enacted to read as follows:

10 §9038.72. College economic development districts

11 A.(1) The governing authority of a local governmental subdivision in which
12 a public postsecondary education institution, hereafter in this Section referred to as
13 a "college", is located may create an economic development district that includes
14 property owned by the institution to provide for cooperative economic and
15 community development among the district, the college, the local governmental
16 subdivision, the state, and the owners of property in the district. Hereafter in this
17 Section, the terms "college economic development district" or "district" refer to a
18 district created pursuant to this Section. Any college economic development district

1 is a political subdivision of the state having all of the rights, powers, privileges, and
2 immunities accorded by law and the Constitution of Louisiana to political
3 subdivisions of the state, subject to the limitations provided in this Section. The
4 governing authority of the local governmental subdivision shall establish the
5 boundaries of a district in the ordinance creating it, which boundaries are not
6 required to be contiguous.

7 (2) For purposes of this Section "local governmental subdivision" means a
8 parish or municipality.

9 (3) Notwithstanding the authority granted by this Section, a municipal
10 governing authority shall not create a district that includes unincorporated areas of
11 a parish without the written consent of the parish governing authority, and a parish
12 governing authority shall not create a district that includes areas in a municipality
13 without written consent of the municipal governing authority.

14 B.(1) A college economic development district shall be administered and
15 governed by a board of commissioners, referred to in this Section as the "board".

16 (2) The board shall be comprised as follows:

17 (a) The highest executive officer of the college shall appoint four persons.

18 (b) The member of the governing authority of the local governmental
19 subdivision whose district includes the official physical address of the college shall
20 appoint one person.

21 (c) The member of the Louisiana House of Representatives whose district
22 includes the official physical address of the college shall appoint one person.

23 (d) The member of the Louisiana Senate whose district includes the official
24 physical address of the college shall appoint one person.

25 (3) Members shall serve five-year terms after initial terms as provided by the
26 ordinance creating the district. Each member of the board shall continue to serve
27 until reappointed or a successor is duly appointed. Any vacancy in the membership
28 of the board shall be filled in the manner of the original appointment for the
29 unexpired term. If an appointment to fill a vacancy is not made within sixty days,

1 the board shall appoint an interim successor to serve until the position is filled by the
2 appointing authority.

3 (4) Any member of the board may be removed by a three-fourths vote of the
4 remaining membership of the board for cause, which cause may include failure to
5 attend at least one-half of the meetings of the board in a two-year period.

6 (5) The members of the board shall serve without salary or per diem. The
7 board may reimburse any member for reasonable, actual, and necessary expenses
8 incurred in the performance of his duties pursuant to this Section.

9 (6) The board shall elect from its members a president, a vice president, a
10 secretary, and a treasurer, whose duties shall be those common to such offices. At
11 the option of the board, the offices of secretary and treasurer may be held by one
12 person.

13 (7) The board shall meet in regular session at least once a year and shall also
14 meet in special session as often as the president of the board convenes the board or
15 upon the written request of at least three members. A majority of the members of the
16 board shall constitute a quorum for the transaction of business. The board shall keep
17 minutes of all meetings and shall make them available for inspection through the
18 board's secretary or secretary-treasurer, who shall also maintain the minute books
19 and archives of the district. The monies, funds, and accounts of the district shall be
20 in the official custody of the board.

21 (8) The domicile of the board shall be established by the board at a location
22 within the district. The official journal of the district is the official journal of the
23 parish where the domicile of the board is located.

24 C. A college economic development district, acting by and through its board,
25 shall have and exercise all powers of a political subdivision necessary or convenient
26 for the carrying out of its objects and purposes, including but not limited to the
27 following:

28 (1) To sue and to be sued.

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

1 (3) To acquire by gift, grant, or purchase all property, including rights of
2 way, movable, immovable, or mixed, corporeal or incorporeal, or any interest
3 therein.

4 (4) To enter into contracts for the purchase, acquisition, construction, and
5 improvement of works and facilities necessary in connection with the purposes of the
6 district.

7 (5) In its own name and on its own behalf to incur debt and to issue revenue
8 bonds, special assessment bonds, certificates, notes, and other evidences of
9 indebtedness and to levy and cause to be collected certain taxes as provided in this
10 Section and as may be provided by general law.

11 (6) To regulate the imposition of fees and rentals charged by the district for
12 its facilities and services rendered by it.

13 (7) To borrow money and pledge all or part of its revenues, leases, rents, or
14 other advantages as security for such loans.

15 (8) To appoint officers, agents, and employees, prescribe their duties, and fix
16 their compensation.

17 (9) To develop public improvement projects for the benefit of the respective
18 college, either directly with the respective college or through one or more private
19 foundations or nonprofit corporations affiliated with the respective college, or both.

20 (10) To exercise any and all of the powers granted to an economic
21 development district as if the district were an economic development district
22 established pursuant to Part II of this Chapter, including but not limited to the powers
23 of tax increment financing pursuant to R.S. 33:9038.33 and 33:9038.34 and the
24 power to levy taxes within the district pursuant to R.S. 33:9038.39. The district shall
25 exercise such powers in accordance with the provisions of Part II of this Chapter.

26 (11) To exercise any and all of the powers granted to a community
27 development district as if the district were a community development district
28 established pursuant to Chapter 27-B of this Title, including but not limited to the
29 power to levy special assessments on property within the district pursuant to R.S.

1 33:9039.29. The district shall exercise such powers in accordance with the
2 provisions of Chapter 27-B of this Title.

3 D.(1) It is expressly provided that any sales and use tax levied by a college
4 economic development district or any subdistrict created by the district may exceed
5 the limitation set forth by Article VI, Section 29(A) of the Constitution of Louisiana
6 and shall be imposed, collected, and enforced subject to the terms of the resolution
7 imposing the tax and the provisions of Chapter 2 of Subtitle II of Title 47 of the
8 Louisiana Revised Statutes of 1950.

9 (2)(a) A college economic development district and any subdistrict created
10 by the district may levy taxes or assessments of any type only after the board has
11 adopted an appropriate resolution giving notice of its intention to levy such taxes or
12 assessments. The resolution shall include a general description of the taxes or
13 assessments to be levied. The district or subdistrict shall give notice of its intention
14 by publication once a week for two weeks in the official journal of the district, the
15 first publication to appear at least fourteen days before the public meeting of the
16 board at which the board shall hear any objections to the proposed taxes or
17 assessments. The notice of intent so published shall state the date, time, and place
18 of the public hearing.

19 (b) Such taxes or assessments may be levied only after the board has called
20 a special election submitting the proposition for the levy of such taxes or assessments
21 to the qualified electors of the district or subdistrict, as applicable, and the
22 proposition has received the favorable vote of a majority of the electors voting in the
23 election. However, if there are no qualified electors in the district or subdistrict, as
24 applicable, as certified by the registrar of voters, no such election is required, but the
25 taxes or assessments shall not be levied unless approved by the governing authority
26 of the local governmental subdivision.

27 (c) The powers and rights conferred by this Paragraph shall be in addition
28 to the powers and rights conferred by any other general or special law. This
29 Paragraph does and shall be construed to provide a complete and additional method

1 for the levy of any taxes or assessments. No election, proceeding, notice, or approval
2 shall be required for the levy of such taxes or assessments except as provided in this
3 Paragraph.

4 E.(1) A college economic development district may create subdistricts as
5 provided in this Subsection. The district shall publish notice of its intent to create
6 a subdistrict in the official journal of the district. At least ten days after publication
7 of such notice, the board shall conduct a public hearing on the question of creating
8 the subdistrict. Thereafter, the board may designate one or more areas within the
9 boundaries of the district as subdistricts of the district. Each subdistrict shall
10 constitute a political subdivision of the state and shall be governed by the board.
11 Each subdistrict shall have the same powers as the district and shall be given a
12 suitable name as the board may designate. Hereafter in this Section, any reference
13 to the district includes any subdistrict created by the district.

14 (2) The boundaries of a district may be changed in accordance with
15 provisions of this Section dealing with the establishment of the original boundaries.
16 If a district is expanded to include an area where qualified electors reside, no tax
17 shall be collected in the added area unless the qualified electors of that added area
18 approve the tax in accordance with Subparagraph (D)(2)(b) of this Section.

19 F.(1) The district may issue and sell from time to time bonds, notes, renewal
20 notes, refunding bonds, interim certificates, certificates of indebtedness, certificates
21 of participation, debentures, warrants, commercial paper, or other obligations or
22 evidences of indebtedness to provide funds for and to fulfill and achieve its public
23 purpose or corporate purposes, as set forth in this Section, including but not limited
24 to the payment of all or a portion of the costs of a project, to provide amounts
25 necessary for any corporate purposes, including necessary and incidental expenses
26 in connection with the issuance of the obligations, the payment of principal and
27 interest on the obligations of the district, the establishment of reserves to secure such
28 obligations, and all other purposes and expenditures of the district incident to and

1 necessary or convenient to carry out its public functions or corporate purposes, and
2 any credit enhancement for said obligations.

3 (2) Except as may otherwise be provided by the board, all obligations issued
4 by the district shall be negotiable instruments and payable solely from the revenues
5 of the district as determined by the board, or from any other source that may be
6 available to the district but shall not be secured by the full faith and credit of the state
7 or the local governmental subdivision.

8 (3) Obligations shall be authorized, issued, and sold by a resolution or
9 resolutions of the board. Such bonds or obligations may be of such series, bear such
10 date or dates, mature at such time or times, bear interest at such rate or rates,
11 including variable, adjustable, or zero interest rates, be payable at such time or times,
12 be in such denominations, be sold at such price or prices, at public or private
13 negotiated sale, after advertisement as is provided for in R.S. 39:1426, be in such
14 form, carry such registration and exchangeability privileges, be payable at such place
15 or places, be subject to such terms of redemption, and be entitled to such priorities
16 on the income, revenue, and receipts of, or available to, the district as may be
17 provided by the board in the resolution or resolutions providing for the issuance and
18 sale of the bonds or obligations of the district.

19 (4) The obligations of the district shall be signed by such officers of the
20 board by either manual or facsimile signatures as shall be determined by resolution
21 or resolutions of the board and may have impressed or imprinted thereon the seal of
22 the district or a facsimile thereof.

23 (5) Any obligations of the district may be validly issued, sold, and delivered,
24 notwithstanding that one or more of the officers of the board signing such
25 obligations, or whose facsimile signature or signatures may be on the obligations,
26 shall have ceased to be such officer of the board at the time such obligations shall
27 actually have been delivered.

28 (6) Obligations of the district may be sold in such manner and from time to
29 time as may be determined by the board to be most beneficial, subject to approval

1 of the State Bond Commission, and the district may pay all expenses, premiums,
2 fees, or commissions which it may deem necessary or advantageous in connection
3 with the issuance and sale thereof.

4 (7) The board may authorize the establishment of a fund or funds for the
5 creation of a debt service reserve, a renewal and replacement reserve, or such other
6 funds or reserves as the board may approve with respect to the financing and
7 operation of any project funded with the proceeds of such bonds and as may be
8 authorized by any bond resolution, trust agreement, indenture of trust or similar
9 instrument or agreement pursuant to the provisions of which the issuance of bonds
10 or other obligations of the district or subdistrict may be authorized.

11 (8) Any cost, obligation, or expense incurred for any of the purposes or
12 powers of the district specified in this Subsection shall be a part of the project costs
13 and may be paid or reimbursed as such out of the proceeds of bonds or other
14 obligations issued by the district; however, no portion of any state sales taxes made
15 directly available to the district pursuant to an agreement with the state shall be used
16 by the district to pay the costs of constructing or operating any privately owned hotel
17 located within the district, without the consent of the Joint Legislative Committee on
18 the Budget or its successor.

19 (9) For a period of thirty days from the date of publication of the resolution
20 authorizing the issuance of bonds hereunder, any persons in interest shall have the
21 right to contest the legality of the resolution and the legality of the bond issue for any
22 cause, after which time no one shall have any cause or right of action to contest the
23 legality of said resolution or of the bonds authorized thereby for any cause
24 whatsoever. If no suit, action, or proceeding is begun contesting the validity of the
25 bond issue within thirty days, the authority to issue the bonds and to provide for the
26 payment thereof, and the legality thereof and all of the provisions of the resolution
27 authorizing the issuance of the bonds shall be conclusively presumed, and no court
28 shall have authority to inquire into such matters.

1 (10) Neither the members of the board nor any person executing the bonds
2 shall be personally liable for the bonds or be subject to any personal liability by
3 reason of the issuance thereof. No earnings or assets of the district shall accrue to
4 the benefit of any private persons. However, the limitation of liability provided for
5 in this Paragraph shall not apply to any gross negligence or criminal negligence on
6 the part of any member of the board or person executing the bonds.

7 (11) All obligations authorized to be issued by the district pursuant to the
8 provisions of this Subsection, together with interest thereof, income therefrom, and
9 gain upon the sale thereof shall be exempt from all state and local taxes.

10 (12) The state and all public officers, any parish, municipality, or other
11 subdivision or instrumentality of the state, any political subdivision, any bank,
12 banker, trust company, savings bank and institution, building and loan association,
13 savings and loan association, investment company or any person carrying on a
14 banking or investment business, any insurance company or business, insurance
15 association, and any person carrying on an insurance business, and any executor,
16 administrator, curator, trustee, and other fiduciary, and any retirement system or
17 pension fund may legally invest any sinking funds monies, or other funds belonging
18 to them or within their control in any bonds or other obligations issued by the district
19 pursuant to the provisions of this Subsection, and such bonds or other obligations
20 shall be authorized security for all public deposits. It is the purpose of this Section
21 to authorize such persons, firms, corporations, associations, political subdivisions
22 and officers, or other entities, public or private, to use any funds owned or controlled
23 by them, including but not limited to sinking, insurance, investment, retirement,
24 compensation, pension and trust funds, and funds held on deposit, for the purchase
25 of any such bonds or other obligations of the district or subdistrict, and that any such
26 bonds shall be authorized security for all public deposits. However, nothing
27 contained in this Section with regard to legal investments or security for public
28 deposits shall be construed as relieving any such person, firm, corporation, or other
29 entity from any duty of exercising reasonable care in selecting securities.

- 1 G. A college economic development district shall dissolve and cease to exist
2 upon the later to occur of either one year after the date on which all loans, bonds,
3 notes, and other evidences of indebtedness of the district, including refunding bonds,
4 are paid in full as to both principal and interest, or fifty years from the creation of the
5 district.
- 6 H. This Section, being necessary for the welfare of the state, the parish, and
7 its residents, shall be liberally construed to effect the purposes thereof.

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 429 Engrossed

2019 Regular Session

Steve Carter

Abstract: Authorizes parishes and municipalities in which public postsecondary education institutions are located to create special districts to provide for cooperative economic development among the institution, parish or municipality, and other entities.

Proposed law authorizes the governing authority of a parish or municipality in which a public postsecondary education institution, a "college", is located to create an economic development district that includes property owned by the college. The purpose of such a district is to provide for cooperative economic and community development among the district, the college, the parish or municipal governing authority, the state, and the owners of property in the district. The parish or municipal governing authority shall establish the boundaries of a district in the ordinance creating it; such boundaries may be changed and are not required to be contiguous.

Proposed law prohibits a municipal governing authority from creating a district that includes unincorporated areas of a parish without the written consent of the parish governing authority, and prohibits a parish governing authority from creating a district that includes areas in a municipality without written consent of the municipal governing authority.

Proposed law provides that such a district is governed by a board of commissioners, comprised as follows:

- (1) The highest executive officer of the college appoints four persons.
- (2) The member of the parish or municipal governing authority whose district includes the official physical address of the college appoints one person.
- (3) The member of the La. House of Representatives whose district includes the official physical address of the college appoints one person.
- (4) The member of the La. Senate whose district includes the official physical address of the college appoints one person.

Proposed law provides that commissioners serve five-year terms, with vacancies filled in the manner of the original appointment. However, if an appointment to fill a vacancy is not made within 60 days, the board shall appoint an interim successor to serve until the position

is filled by the appointing authority. Authorizes removal of a commissioner for cause by a 3/4ths vote of the board. Provides that commissioners serve without compensation but authorizes reimbursement of expenses.

Proposed law provides that the official journal of such a district is the official journal of the parish where the domicile of the board is located. Provides that a district created pursuant to proposed law is a political subdivision of the state and has the powers of a political subdivision. Provides that such powers include the power:

- (1) To develop public improvement projects for the benefit of the respective college, either directly with the respective college or through one or more private foundations or nonprofit corporations affiliated with the respective college, or both.
- (2) To exercise the powers granted to an economic development district established pursuant to present law. (Present law authorizes such a district to utilize tax increment financing. Further authorizes a district to levy ad valorem taxes up to five mills, sales taxes up to 2%, and hotel occupancy taxes up to 2%, all subject to voter approval unless there are no voters in the district.)
- (3) To exercise the powers granted to a community development district established pursuant present law. (Present law authorizes such a district to finance, construct, and operate various public facilities and authorizes the levy of special property assessments, based on proportionate benefit from the facility, to fund such activities.)

Proposed law provides procedures for the levy of any tax or assessment, including a requirement for voter approval unless there are no voters in the district. If a district is expanded to include an area where qualified electors reside, proposed law prohibits collection of a tax in the added area unless the qualified electors of that added area approve the tax.

Proposed law authorizes such a district to create subdistricts which are governed by the board of commissioners and have the same powers as the district.

Proposed law authorizes the district to issue bonds and to otherwise incur debt. Provides requirements and procedures therefor.

Proposed law provides that such a district shall dissolve and cease to exist upon the later to occur of either one year after the date on which all debt of the district is paid in full or 50 years from the creation of the district.

(Adds R.S. 33:9038.72)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill:

1. Authorize municipalities to create the economic development districts provided for by proposed law.
2. Add requirement for parish approval if a municipal district includes unincorporated area and for municipal approval if a parish district includes incorporated area.
3. Provide that boundaries of districts are not required to be contiguous.
4. Remove authority for a district to acquire property by means other than gift, grant, or purchase or to hold and use any franchise or property.

5. Provide that improvement projects which a district may develop include those that benefit the college indirectly through an affiliated nonprofit corporation.
6. Add prohibition on the collection of taxes in an area added to a district unless approved by the voters in the added area.
7. Authorize, rather than require, inclusion of the board's seal on obligations of the district.