SLS 09RS-327 **ORIGINAL**

Regular Session, 2009

SENATE BILL NO. 224

BY SENATOR N. GAUTREAUX

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

ENERGY DEVELOPMENT. Authorizes creation of sustainable energy financing districts by local governmental subdivisions and provides for issuance of bonds and property assessment programs for solar and energy efficiency projects. (8/15/09)

AN ACT

To enact Subpart B-42 of Part IV of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 33:130.790 through 130.793, inclusive; to provide relative to local governmental subdivisions; to authorize the creation of sustainable energy financing districts; to provide terms, conditions, procedures, and requirements; to provide for the powers and duties of the districts; to authorize certain financing concerning property within the district; to provide for property assessment and collection of such assessments within the district; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart B-42 of Part IV of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, comprised of R.S. 33:130.790 through 130.793, inclusive, is hereby enacted to read as follows:

SUBPART B-42. SUSTAINABLE ENERGY FINANCING DISTRICTS

§130.790. Sustainable energy financing districts; authority; creation

A. The governing authority of any local governmental subdivision that is otherwise authorized to collect property taxes and to issue and sell bonds may

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create a special district to be known as a sustainable energy financing district. The governing authority of the local governmental subdivision shall be the governing authority for any district so created.

B. A sustainable energy financing district shall be created by ordinance or resolution of the governing authority. The ordinance or resolution shall provide that the area of the district shall consist of that immovable property located within the local governmental subdivision whose owners have agreed or agree to participate in the district. The area of the district may or may not be contiguous and may be modified for the purposes of this Subpart.

C. A sustainable energy financing district shall include only residential or commercial immovable property for which the owner has executed a contract or agreement consenting to the inclusion of such property within the district in return for a loan from the district and a cooperative endeavor agreement with the district in accordance with the provisions of this Subpart. The consent of the owner may be given before or after the initial creation of the district.

D. The purpose of the sustainable energy financing district shall be to encourage, accommodate, and provide a source of revenue and means for financing capital improvements for energy efficiency improvements, such as retrofitting and the installation of renewable energy improvements, such as fixtures for immovable property within the district, whether such immovable property is commercial or residential.

§130.791. Financing for projects

A. The local governmental subdivision creating a district may incur debt for the purpose of providing to such district sufficient funds to make the loans provided for in this program.

B. The owner of residential or commercial immovable property within the district may request financing in the form of a loan from the district to cover the costs of energy efficiency improvements or renewable energy improvements that the owner contracts to make to the immovable property.

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Such financing shall include interest rates and administrative fees as determined by the district. The district shall accept or reject the request according to criteria established by the district and make such loan upon terms and conditions that shall be set forth in the ordinance or resolution. However, the term for repayment of a loan, together with interest rates and administrative fees, shall not exceed twenty years.

B.(1) If agreed by the district, the amount of the loan including interest rates and administrative fees shall be assessed against the immovable property upon which the improvements are placed and shall be collected in the same manner as is provided for the ad valorem taxes assessed on the property by the local governmental subdivision creating the district.

(2) The district may enter into any necessary agreement with the sheriff or other local ad valorem property tax collector for assessing and collecting the assessment provided for in this Subsection, including provisions for reimbursing the sheriff or other collector for the cost of such assessment and collection.

(3) Upon failure of the property owner to pay the assessment within thirty days of receipt, the local governmental subdivision may file a certified copy of said charges with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the local governmental subdivision and district. Such lien and privilege shall have the same ranking as an ad valorem tax lien on immovable property as provided in R.S. 9:4821(1), and may be enforced and collected by ordinary civil proceeding or enforced and collected as any ordinary property tax lien assessed against the property and collected in the manner fixed for collection of tax and subject to the same civil penalties for delinquencies, together with attorneys' fees and costs incurred in notification to the owner and the enforcement and collection of the amounts owed.

§130.792. Powers of district and local governmental subdivision

A. The local governmental subdivision and the sustainable energy

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financing district shall have all of the rights and powers necessary to carry out and effectuate the purposes and provisions of this Subpart, including but not limited to:

(1) To provide financing to the owners of residential and commercial property within the district as authorized for the purposes of this Subpart.

(2) To establish terms, conditions, procedures, requirements, and programs to effectuate the provisions of this Subpart.

(3) To make and execute contracts and other instruments necessary in the exercise of the powers and functions of the district under this Subpart, including contracts with persons, firms, corporations, and others.

(4) To borrow money and issue bonds or obligations, and to pay for such bonds from assessments against property levied pursuant to this Subpart.

(5) To pledge or assign any monies, fees, charges, or other revenues and any proceeds derived by the district from the sale of bonds and other contracts or rights of the district.

(6) To apply and contract for assistance from the United States or other public or private sources, whether in the form of a grant, guarantee, loan, or otherwise, or to serve and act in such capacities when necessary or desirable to apply for and accept such grants, guarantees, subsidies, loans, or other assistance.

(7) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, guarantee, subsidy, or donation of any property or money.

(8) To exercise any and all other powers necessary to accomplish the purposes of this Subpart.

B. The powers and rights conferred by this Subpart shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other general laws and shall not be regarded as in

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derogation of any powers now existing. The provisions of this Subpart shall be liberally construed for the accomplishment of its purposes.

§130.793. Definitions

As used in this Subpart:

(1) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption in residential or commercial buildings, and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems.

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption.

(c) Automatic energy control systems.

(d) Heating, ventilating, or air conditioning and distribution system modification or replacements in buildings or central plants.

(e) Caulking and weatherstripping.

(f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a residential or commercial building unless such increase in illumination is necessary to conform to the applicable building code for the proposed lighting system.

(g) Energy recovery systems.

(h) Daylighting systems.

(i) Any other modification, installation, or remodeling authorized as a utility cost-savings measure.

(2) "Renewable energy improvement" means any fixture, product, system, device, or interacting group of devices installed behind the meter of any residential or commercial building that produces energy from renewable

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resources, including but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal systems, as may be authorized, except that it shall not include a renewable energy improvement that interferes with a right held by a public utility regulated by the Public Service Commission.

(3) "Project" means a capital improvement to existing residential, commercial, or industrial structures to retrofit such structures for significant energy savings or installation of solar or other alternative electrical energy-producing improvements to serve that structure or other structures on contiguous property under common ownership.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST

Proposed law authorizes the creation of a special district to be known as sustainable energy financing district by the governing authority of any local governmental subdivision that is otherwise authorized to collect property taxes and to issue and sell bonds. Provides that the governing authority of the local governmental subdivision shall be the governing authority for any district so created.

Proposed law provides that the district shall be created by ordinance or resolution of the governing authority. Such ordinance or resolution shall provide that the area of the district shall consist of that immovable property located within the local governmental subdivision whose owners have agreed or agree to participate in the district. The area of the district may or may not be contiguous and may be modified for the purposes of the proposed law.

Proposed law provides that a sustainable energy financing district shall include only residential or commercial immovable property for which the owner has executed a contract or agreement consenting to the inclusion of such property within the district in return for a loan from the district and a cooperative endeavor agreement with the district. The consent of the owner may be given before or after the initial creation of the district.

Proposed law provides the purpose of the sustainable energy financing district shall be to encourage, accommodate, and provide a source of revenue and means for financing capital improvements for energy efficiency improvements, such as retrofitting and the installation of renewable energy improvements such as fixtures for immovable property within the district, whether such immovable property is commercial or residential.

Proposed law provides the local governmental subdivision creating such district may incur debt for the purpose of providing to such district sufficient funds to make the loans provided for in the proposed law.

Proposed law further provides that the owner of residential or commercial immovable property within the district may request financing in the form of a loan from the district to cover the costs of energy efficiency improvements or renewable energy improvements that the owner contracts to make to the immovable property. Such financing shall include interest

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rates and administrative fees as determined by the district.

Proposed law provides that the district shall accept or reject the request according to criteria established by the district and make such loan upon terms and conditions that shall be set forth in the ordinance or resolution. However, the term for repayment of a loan, together with interest rates and administrative fees, shall not exceed 20 years.

Proposed law further provides that if agreed by the district, the amount of the loan including interest rates and administrative fees shall be assessed against the immovable property upon which the improvements are placed and shall be collected in the same manner as is provided for the ad valorem taxes assessed on the property by the local governmental subdivision creating the district. Provides that the district may enter into any necessary agreement with the sheriff or other local ad valorem property tax collector for assessing and collecting the assessment, including provisions for reimbursing the sheriff or other collector for the cost of such assessment and collection.

Proposed law further provides that upon failure of the property owner to pay the assessment within 30 days of receipt, the local governmental subdivision may file a certified copy of said charges with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the local governmental subdivision and district. Such lien and privilege shall have the same ranking as an ad valorem tax lien on immovable property, and may be enforced and collected by ordinary civil proceeding or enforced and collected as any ordinary property tax lien assessed against the property and collected in the manner fixed for collection of tax and subject to the same civil penalties for delinquencies, together with attorneys' fees and costs incurred in notification to the owner and the enforcement and collection of the amounts owed.

Proposed law provides for the powers of the district and local governmental subdivision, including:

(1) To provide financing to the owners of residential and commercial property within the district.

(2) To establish terms, conditions, procedures, requirements, and programs to effectuate the provisions of the proposed law.

(3) To make and execute contracts and other instruments necessary in the exercise of the powers and functions of the district, including contracts with persons, firms, corporations, and others.

(4) To borrow money and issue bonds or obligations, and to pay for such bonds from assessments against property levied pursuant to the proposed law.

(5) To pledge or assign any monies, fees, charges, or other revenues and any proceeds derived by the district from the sale of bonds and other contracts or rights of the district.

(6) To apply and contract for assistance from the United States or other public or private sources, whether in the form of a grant, guarantee, loan, or otherwise, or to serve and act in such capacities when necessary or desirable to apply for and accept such grants, guarantees, subsidies, loans, or other assistance.

(7) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, guarantee, subsidy, or donation of any property or money.

(8) To exercise any and all other powers necessary to accomplish the purposes of the proposed law.

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Proposed law provides definitions:

(1) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption in residential or commercial buildings, and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems.

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption.

(c) Automatic energy control systems.

(d) Heating, ventilating, or air conditioning and distribution system modification or replacements in buildings or central plants.

(e) Caulking and weatherstripping.

(f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a residential or commercial building unless such increase in illumination is necessary to conform to the applicable building code for the proposed lighting system.

(g) Energy recovery systems.

(h) Daylighting systems.

(i) Any other modification, installation, or remodeling authorized as a utility cost-savings measure.

(2) "Renewable energy improvement" means any fixture, product, system, device, or interacting group of devices installed behind the meter of any residential or commercial building that produces energy from renewable resources, including, but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal systems, as may be authorized, except that it shall not include a renewable energy improvement that interferes with a right held by a public utility regulated by the Public Service Commission.

(3) "Project" means a capital improvement to existing residential, commercial, or industrial structures to retrofit such structures for significant energy savings or installation of solar or other alternative electrical energy-producing improvements to serve that structure or other structures on contiguous property under common ownership.

Effective August 15, 2009.

(Adds R.S. 33:130.790 - 130.793)

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