

Regular Session, 2014

SENATE BILL NO. 617

BY SENATOR AMEDEE

LOCAL AGENCIES. Provides relative to the creation of Ascension Parish Road Infrastructure Development Districts. (gov sig)

1 AN ACT

2 To enact R.S. 33:4690.13, relative to Ascension Parish; to authorize the parish governing  
3 authority to create road infrastructure development districts; to provide relative to the  
4 authority of such districts to undertake new residential road projects and to finance  
5 them by levying taxes and assessments and incurring debt; to provide relative to  
6 taxes, assessments, and debt; to provide for general powers and duties of a district;  
7 to provide for an effective date; and to provide for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:4690.13 is hereby enacted to read as follows:

11 **§4690.13. Ascension Parish Road Infrastructure Development Districts**

12 **A. Findings and purpose. (1) At the request of the governing authority**  
13 **of Ascension Parish, the legislature finds that the traditional method of**  
14 **financing new residential road infrastructure developments by, separate taxes**  
15 **or assessments for each individual road improvement project, though very**  
16 **appropriate in many cases, may not be the best way to provide for multiple road**  
17 **improvement projects in a relatively small geographic area. The legislature**

1 finds that an effective alternative method of financing new road infrastructure  
2 improvements in a small geographic area is to finance the entire undertaking  
3 as a single package. It is the purpose of this Section to authorize the levy of ad  
4 valorem taxes and non ad valorem assessments for financing only new  
5 residential road infrastructure improvement projects in Ascension Parish.

6 (2) The legislature further finds that given the complexity of such  
7 projects and the geographic compactness of the areas contemplated for such  
8 development, the governing authority of Ascension Parish may wish to create  
9 special taxing districts having the authority to plan and execute the new  
10 residential road infrastructure development projects and to levy the ad valorem  
11 taxes and non ad valorem assessments authorized by this Section. Even if the  
12 governing authority of the parish serves as the governing authority of the  
13 district, there are proven political and legal advantages to the use of special  
14 taxing districts for carrying out governmental functions. It is further the  
15 purpose of this Section to authorize the governing authority of Ascension Parish  
16 to create special taxing districts authorized to do those things necessary, as  
17 prescribed in this Section, to finance, execute, and maintain new residential  
18 road infrastructure development projects such as those described in this  
19 Subsection.

20 B. Creation. Without limiting any authority of the governing authority  
21 of the parish of Ascension as provided in the government home rule charter, the  
22 governing authority may create special taxing districts within the parish for the  
23 purpose of new residential road infrastructure improvement projects subject  
24 to the provisions of this Section. The parish governing authority may not create  
25 such a district until it has held two public hearings on the issue. Any such  
26 district shall be a political subdivision of the state as defined in Article VI,  
27 Section 44 of the Constitution of Louisiana and shall have all authority granted  
28 by the constitution, the home rule charter of Ascension Parish, and this Section.  
29 The parish governing authority shall serve as the governing authority of any

1 such special district. The parish governing authority may, at its discretion,  
2 require as a condition of creation of the road infrastructure development  
3 district that title to, control of, and responsibility for maintenance of any or all  
4 road infrastructure projects within the district be transferred to the parish  
5 governing authority in accordance with its existing ordinances and practices.

6 C. Special powers. The district may, subject to applicable regulatory  
7 jurisdiction and permitting authority of other public entities and officials,  
8 finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or  
9 extend, equip, operate, and maintain systems, facilities, and basic road  
10 infrastructures for the following:

11 (1) Bridges or culverts that may be needed across or in any drain, ditch,  
12 canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or  
13 cut, and roadways over levees and embankments, and may construct any and  
14 all of such works and improvements across, through, or over any public right-  
15 of-way, highway, grade, fill, or cut.

16 (2) District roads equal to or exceeding parish specifications and street  
17 lights.

18 D. Taxing authority. (1)(a) The governing authority of a special taxing  
19 district created as provided in this Section may levy and collect, in the same  
20 manner and at the same time as all other ad valorem taxes in the parish are  
21 levied and collected, a special ad valorem tax, not to exceed fifteen mills, upon  
22 all taxable, immovable property situated within the boundaries of the district.  
23 The ad valorem tax provided for herein shall be in addition to all other ad  
24 valorem taxes provided for by law.

25 (b) The proceeds of the tax authorized by this Paragraph may only be  
26 used for road projects within the district.

27 (2)(a) To maintain, operate, and preserve the facilities and road projects  
28 of the district, the district governing authority may levy a maintenance special  
29 assessment. The district governing authority shall determine the amount of the

1 assessment based upon a report of the district's engineer and shall assess lands  
2 benefitted by the road improvement, such assessments to be apportioned in  
3 proportion to the benefits received by each tract of land. Benefits received shall  
4 be determined on a pro rata rate by the amount of road frontage on each lot.  
5 Assessments shall be collected and enforced by the tax collector in the same  
6 manner and at the same time as ad valorem taxes. Maintenance special  
7 assessments shall be a lien on the property against which assessed until paid.

8 (b) Any non ad valorem assessments shall be sent to the assessor's office  
9 no later than April 30<sup>th</sup> for each new district for an assessment for the following  
10 fiscal year and shall not exceed two hundred dollars per year per lot.

11 E. General powers and duties. The governing authority of the district  
12 shall have the following additional powers and duties:

13 (1) To adopt bylaws for the regulation of its affairs and the conduct of  
14 its business.

15 (2) To adopt an official seal and alter the seal at its pleasure.

16 (3) To maintain an office at such place as it may designate and to occupy  
17 space for such purposes as may be made available by the parish governing  
18 authority.

19 (4) To sue and to be sued.

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

23 (6) To acquire, by any lawful means, property, including rights-of-way,  
24 and to hold and use any franchise or property, whether real, personal, or mixed,  
25 tangible or intangible, necessary or desirable for carrying out the objects and  
26 purposes of the district.

27 (7) To borrow money and issue bonds or obligations of the district in the  
28 manner provided by this Section and to refund the same.

29 (8) To make and execute contracts and other instruments necessary in

1 the exercise of the powers and functions of the district under this Section.

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

5 (10) To employ such employees, to make use of such persons as the  
6 parish governing authority may make available to the district for its use, and  
7 to employ or otherwise retain the services of accountants, financial advisors,  
8 underwriters, attorneys, engineers, and such other consultants as may be  
9 required, in the judgment of the governing authority, and to fix and pay their  
10 compensation.

11 (11) To exercise any and all other powers necessary to accomplish the  
12 purposes set forth herein.

13 (12) Nothing in this Section shall be construed as to vest or confer the  
14 power of expropriation on the parish governing authority or any special taxing  
15 district.

16 F. Authority to incur debt. (1) For any of its lawful purposes, the  
17 district governing authority may issue bonds secured by and payable from a  
18 pledge of the proceeds of the ad valorem taxes and the non ad valorem  
19 assessments authorized by this Section. The bonds shall have such form,  
20 characteristics, and details and shall be issued in accordance with this  
21 Subsection and all other laws applicable to the issuance of bonds by political  
22 subdivisions including but not limited to Article VI, Section 35 of the  
23 Constitution of Louisiana and Part IV of Chapter 11 and Chapters 13, 13-A, 14,  
24 and 14-A of Title 39 of the Louisiana Revised Statutes of 1950.

25 (2) The district governing authority shall authorize the issuance of bonds  
26 by adoption of a resolution. It may not adopt a resolution authorizing the  
27 issuance of general obligation bonds until a proposition authorizing the funding  
28 of the tax or assessment into bonds and stating the purpose or purposes for  
29 which the bonds will be issued is approved by a majority of the qualified district

1 electors voting on the proposition at an election held for that purpose and  
2 conducted in accordance with the Louisiana Election Code.

3 (3) The bonds shall be of such series, bear such date or dates, be serial  
4 or term bonds, mature at such time or times no later than thirty years from  
5 their date, bear interest at such rate or rates payable on such date or dates, be  
6 in such denomination, be in such form, carry such registration and  
7 exchangeability provisions, be payable in such medium of payment and at such  
8 place or places, be subject to such terms of redemption, and be entitled to such  
9 priorities on the tax or assessment as the resolution authorizing such bonds may  
10 provide.

11 (4) The bonds shall be executed in the name of the district by the manual  
12 or facsimile signatures of such official or officials as may be designated in the  
13 resolution authorizing their issuance. If any officer whose manual or facsimile  
14 signature appears on any bond ceases to be such officer before the delivery of  
15 such bonds, such signature nevertheless shall be valid and sufficient for all  
16 purposes as if he had remained in office until such delivery. The resolution may  
17 provide for authentication of the bonds by the fiscal agent thereunder.

18 (5) The commissioners, officers, or employees of the district or any other  
19 person executing the bonds of the district, while acting within the scope of their  
20 authority, shall not be personally liable for the bonds nor be subject to any  
21 personal liability or accountability by reason of the issuance, sale, and delivery  
22 thereof.

23 (6) The holders of any bonds issued hereunder shall have such rights  
24 and remedies as may be provided in the resolution authorizing the issuance of  
25 the bonds, including but not by way of limitation, appointment of a trustee for  
26 bondholders and any other available civil action to compel compliance with the  
27 terms and provisions of the bonds and the resolution.

28 (7)(a) Until all bonds issued pursuant to this Subsection have been  
29 retired as to principal and interest or irrevocable provision otherwise made for

1 their complete redemption and payment in principal, interest, and redemption  
2 premium if any, neither the legislature, the district, nor any other authority  
3 may act to:

4 (i) Impair any obligation of contract for the benefit of the holders of the  
5 bonds.

6 (ii) Discontinue or decrease the tax or assessment or permit to be  
7 discontinued or decreased the tax or assessment in anticipation of the collection  
8 of which such bonds have been issued.

9 (iii) Make any change in the allocation and dedication of the proceeds  
10 of such tax that would diminish the amount of the tax revenues to be received  
11 by the district.

12 (b) There is hereby vested in the holders of such bonds a contract right  
13 in the provisions of this Subsection.

14 (8) Bonds issued pursuant to this Subsection shall have all the qualities  
15 of negotiable paper and shall constitute negotiable instruments under applicable  
16 state law. They shall not be invalid for any irregularity or defect in the  
17 proceedings for the issuance and sale thereof and shall be incontestable in the  
18 hands of bona fide purchasers or holders for value.

19 (9) All bonds and the income therefrom shall be exempt from taxation  
20 by the state and any political subdivision thereof. The bonds shall be legal and  
21 authorized investments for banks, savings banks, insurance companies,  
22 homestead and building and loan associations, trustees, and other fiduciaries  
23 and may be used for deposit with any officer, board, or political subdivision of  
24 the state in any case where, by present or future laws, deposit of security is  
25 required.

26 (10) All bonds issued shall be advertised for sale on sealed bids. The  
27 district may reject any and all bids. If the bonds are not sold pursuant to the  
28 advertisement, they may be sold by the commission at private sale within sixty  
29 days after the date advertised for the reception of sealed bids, but no private

1 sale shall be made at a price less than the highest bid received. If not so sold,  
 2 the bonds shall be readvertised as prescribed by this Paragraph.

3 (11) The proceeds derived from the sale of bonds shall be used  
 4 exclusively by the issuer for the purpose or purposes for which the bonds are  
 5 authorized to be issued, but the purchasers of the bonds shall not be obligated  
 6 to see to the application thereof.

7 G. Exceptions. This Section shall not apply to partitions of family  
 8 property.

9 H. Termination of Act. This Act shall terminate on August 1, 2024.

10 Section 2. This Act shall become effective upon signature by the governor or, if not  
 11 signed by the governor, upon expiration of the time for bills to become law without signature  
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 14 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Michael Bell.

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#### DIGEST

Amedee (SB 617)

Proposed law authorizes the governing authority of Ascension Parish to create special taxing districts for funding new residential road infrastructure development only.

Proposed law requires that the parish governing authority hold two public hearings before creating such a district. Provides for the parish governing authority to serve as the governing authority of such a district. Authorizes any such district to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain specified road infrastructure projects.

Proposed law authorizes a district to levy taxes as follows:

- (1) An ad valorem tax not to exceed 15 mills for any lawful purpose of the district. Provides that such tax may only be dedicated to or used for any and all road projects within the district.
- (2) A maintenance special assessment to finance maintenance and preservation of the district's road projects. Provides that the amount assessed against each property in the district shall be determined by apportioning the costs of the projects according to benefits received. Further provides that the benefits received are to be determined on a pro rata rate by the amount of road frontage on each lot and provides that assessments shall be sent to the assessor's office no later than April 30<sup>th</sup> for each new district for an assessment for the following fiscal year and shall not exceed \$200 per year per lot.



Proposed law grants a district the following additional powers and duties:

- (1) To adopt bylaws.
- (2) To adopt and alter an official seal.
- (3) To maintain an office and to occupy space made available by the city-parish governing authority.
- (4) To sue and to be sued.
- (5) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, guarantee, subsidy, or donation of any property or money.
- (6) To acquire and to hold and use any franchise or property.
- (7) To borrow money and issue bonds.
- (8) To make and execute contracts.
- (9) To pledge or assign any revenues.
- (10) To employ such employees, to make use of such persons as the city-parish governing authority may make available to the district, and to employ or otherwise retain the services of accountants, financial advisors, underwriters, attorneys, engineers, and such other consultants.
- (11) To exercise any and all other powers necessary to accomplish its purposes.
- (12) Provides that nothing in proposed law shall be construed as to vest or confer the power of expropriation on the parish governing authority or any special taxing district.

Proposed law authorizes the district to issue bonds secured by the ad valorem taxes and the non ad valorem assessments. Requires voter approval for the issuance of general obligation bonds.

Proposed law retains present constitution and present law and provides that bonds issued pursuant to proposed law shall be in accordance with present constitution and present law.

Proposed law provides that it shall not be applicable to partitions of family property.

Proposed law provides that it shall terminate on August 1, 2024.

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

(Adds R.S. 33:4690.13)

#### Summary of Amendments Adopted by Senate

#### Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Adds provision specifically providing that proposed law shall not be construed as to vest or confer expropriation authority.

2. Adds an exception to proposed law for partitions of family property.
3. Adds a sunset date.