

Regular Session, 2012

HOUSE BILL NO. 145

BY REPRESENTATIVE WESLEY BISHOP

DISTRICTS/NEIGHBORHOOD: Creates the North Kenilworth Improvement and Security District in Orleans Parish

1 AN ACT

2 To enact R.S. 33:9091.19, relative to Orleans Parish; to create the North Kenilworth
3 Improvement and Security District within the parish; to provide relative to the
4 purpose, governance, and powers and duties of the district; to provide for the
5 imposition of a parcel fee and for the use thereof; and to provide for related matters.

6 Notice of intention to introduce this Act has been published
7 as provided by Article III, Section 13 of the Constitution of
8 Louisiana.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:9091.19 is hereby enacted to read as follows:

11 §9091.19. North Kenilworth Improvement and Security District

12 A. Creation. There is hereby created within the parish of Orleans, as more
13 specifically provided in Subsection B of this Section, a body politic and corporate
14 which shall be known as the North Kenilworth Improvement and Security District,
15 referred to in this Section as the "district". The district shall be a political subdivision
16 of the state as defined in the Constitution of Louisiana.

17 B. Boundaries. The boundaries of the district shall be that area included
18 within the following perimeter: beginning at the intersection of Morrison Road and
19 Malvern Drive, north along Malvern Drive to its intersection with the south side of
20 Curran Boulevard, then east along the south side of Curran Boulevard to its

1 intersection with Afton Drive, then south along Afton Drive to its intersection with
2 Aberdeen Road, then west along Aberdeen Road to its intersection with Dartmoor
3 Drive, then south along Dartmoor Drive to its intersection with Morrison Road, then
4 west along Morrison Road to the point of beginning.

5 C. Purpose. The district is established for the primary object and purpose of
6 promoting and encouraging the beautification, security, and overall betterment of the
7 district.

8 D. Governance. (1) The district shall be managed by a nine-member board
9 of commissioners, referred to in this Section as the "board". The board shall be
10 composed as follows:

11 (a) The president of the North Kenilworth Homeowners Association.

12 (b) The board of directors of the North Kenilworth Homeowners Association
13 shall appoint four members.

14 (c) The mayor of the city of New Orleans shall appoint one member to the
15 board from a list of nominees submitted by the North Kenilworth Homeowners
16 Association.

17 (d) The member of the Louisiana House of Representatives whose district
18 encompasses all or the greater portion of the area of the district shall appoint one
19 member from a list of nominees submitted by the North Kenilworth Homeowners
20 Association.

21 (e) The member of the Louisiana Senate whose district encompasses all or
22 the greater portion of the area of the district shall appoint one member from a list of
23 nominees submitted by the North Kenilworth Homeowners Association.

24 (f) The member of the governing authority of the city of New Orleans whose
25 council district encompasses all or the greater portion of the area of the district shall
26 appoint one member from a list of nominees submitted by the North Kenilworth
27 Homeowners Association.

28 (2) All members of the board shall be residents and qualified voters of the
29 district.

1 ~~(3)(a) Board members serving pursuant to Subparagraphs (1)(b) through (f)~~
2 ~~of this Subsection shall serve four-year terms after initial terms as provided in this~~
3 ~~Subparagraph: three members shall serve an initial term of one year; two shall serve~~
4 ~~an initial term of two years; two shall serve an initial term of three years; and two~~
5 ~~shall serve an initial term of four years, as determined by lot.~~

6 ~~(b) The member serving pursuant to Subparagraph (1)(a) of this Subsection~~
7 ~~shall serve during his term of office as president of the North Kenilworth~~
8 ~~Homeowners Association.~~

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

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

16 ~~(5) The minute books and archives of the district shall be maintained by the~~
17 ~~secretary or the treasurer of the board. The monies, funds, and accounts of the district~~
18 ~~shall be in the official custody of the board.~~

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

25 ~~(7) A majority of the members of the board shall constitute a quorum for the~~
26 ~~transaction of business. The board shall keep minutes of all meetings and shall make~~
27 ~~them available through the secretary of the board to residents of the district.~~

1 (8) The members of the board shall serve without compensation but shall be
2 reimbursed for their reasonable out-of-pocket expenses directly related to the
3 governance of the district.

4 (9) Each member of the board shall have one vote. The vote of a majority of
5 the members of the board present and voting, a quorum being present, shall be
6 required to decide any question upon which the board takes action.

7 E. Powers and duties. The district, acting through its board, shall have the
8 following powers and duties:

9 (1) To sue and be sued.

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

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

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

15 (5) To provide or enhance security patrols in the district, to provide for
16 improved lighting, signage, or matters relating to the security of the district, to
17 provide for the improvements of the district, or to provide generally for the overall
18 betterment of the district.

19 (6) To enter into contracts and agreements with one or more other districts
20 for the joint security, improvement, or betterment of all participating districts.

21 (7) To provide for such services and make such expenditures as the board
22 deems proper for the upkeep of the district.

23 (8) To acquire or lease items and supplies which the board deems
24 instrumental to achieving the purposes of the district.

25 (9) To procure and maintain liability insurance against any personal or legal
26 liability of a board member that may be asserted or incurred based upon his service
27 as a member of the board or that may arise as a result of his actions taken within the
28 scope and discharge of his duties as a member of the board.

1 ~~(10) To perform or have performed any other function or activity necessary~~
2 ~~or appropriate to carry out the purposes of the district or for the overall betterment~~
3 ~~of the district.~~

4 F. Parcel fee. The governing authority of the city of New Orleans may
5 impose and collect a parcel fee within the district subject to and in accordance with
6 the provisions of this Subsection:

7 (1) The amount of the fee shall be as requested by duly adopted resolution
8 of the board. The fee shall be a flat fee per parcel of land. The fee shall not exceed
9 five hundred dollars per year.

10 (2)(a) The fee shall be imposed on each parcel located within the district
11 except as provided in Paragraph (4) of this Subsection.

12 (b) For purposes of this Section, "parcel" means a lot, a subdivided portion
13 of ground, an individual tract, or a "condominium parcel" as defined in R.S.
14 9:1121.103.

15 (c) The owner of each parcel shall be responsible for payment of the fee.

16 (3)(a) The fee shall be imposed only after the question of its imposition has
17 been approved by a majority of the registered voters of the district who vote on the
18 proposition at an election held for that purpose in accordance with the Louisiana
19 Election Code. The amount of the fee may be changed by duly adopted resolution
20 of the board, not to exceed the maximum amount as provided in this Subsection. No
21 other election shall be required except as provided by this Paragraph.

22 (b) The fee shall expire eight years after its initial levy but may be renewed
23 if approved by a majority of the registered voters of the district voting on the
24 proposition at an election as provided in Subparagraph (a) of this Paragraph. Any
25 election to authorize the renewal of the fee shall be held for that purpose in
26 accordance with the Louisiana Election Code. If the fee is renewed, the term of the
27 imposition of the fee shall be as provided in the proposition authorizing such
28 renewal, not to exceed eight years.

1 (4) No fee shall be imposed upon any parcel whose owner qualifies for the
2 special assessment level provided by Article VII, Section 18(G)(1) of the
3 Constitution of Louisiana.

4 (5) The fee shall be collected at the same time and in the same manner as ad
5 valorem taxes on property subject to taxation by the city are collected.

6 (6) Any parcel fee which is unpaid shall be added to the tax rolls of the city
7 and shall be enforced with the same authority and subject to the same penalties and
8 procedures as unpaid ad valorem taxes.

9 (7)(a) The proceeds of the fee shall be used solely and exclusively for the
10 purpose and benefit of the district; however, the city may retain one percent of the
11 amount collected as a collection fee.

12 (b) The city of New Orleans shall remit to the district all amounts collected
13 not more than sixty days after collection.

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

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

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

20 I. Miscellaneous provisions. It is the purpose and intent of this Section that
21 any additional security patrols, public or private, or any other security or other
22 services or betterments provided by the district shall be supplemental to and not be
23 in lieu of personnel and services to be provided in the district by the state or the city
24 of New Orleans or their departments or agencies or by other political subdivisions.

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

1 (2) No board member or officer of the district shall be liable to the district
2 or to any individual who resides, owns property, visits, or otherwise conducts
3 business in the district for monetary damages for breach of his duties as a board
4 member or officer; however, this Paragraph does not eliminate or limit the liability
5 of a board member or officer for any of the following:

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

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

9 (3) To the fullest extent permitted by R.S. 9:2792 et seq., including R.S.
10 9:2792.1 through 2792.9, a person serving the district as a board member or officer
11 shall not be individually liable for any act or omission arising out of the performance
12 of his duties.

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

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)]

Wesley Bishop

HB No. 145

Abstract: Creates the North Kenilworth Improvement and Security District in Orleans Parish for the purpose of promoting and encouraging the beautification, security, and overall betterment of the district. Provides for a board of commissioners and for the imposition and use of a parcel fee.

Proposed law creates the North Kenilworth Improvement and Security District in Orleans Parish as a political subdivision of the state for the purpose of promoting and encouraging the beautification, security, and overall betterment of the district. Provides for district boundaries and that the district is governed by a board of nine commissioners, all of whom shall be residents and qualified voters of the district, composed as follows:

- (1) The president of North Kenilworth Homeowners Association (association).
- (2) Four members appointed by the association's governing board.

- (3) One member appointed by the mayor of the city of New Orleans.
- (4) One member appointed by the member of the La. House of Representatives whose district encompasses all or the greater portion of the district's area.
- (5) One member appointed by the member of the La. Senate whose district encompasses all or the greater portion of the district's area.
- (6) One member appointed by the member of the New Orleans City Council whose district encompasses all or the greater portion of the district's area.

Proposed law provides that appointments by elected officials are made from nominations made by the association. Provides that appointed members shall serve staggered four-year terms. Provides that the president of the association board shall serve during his term of office. Provides that vacancies shall be filled in the same manner as the original appointment and that members shall serve without compensation.

Proposed law authorizes the board to select from its members a president and other officers whose duties shall be fixed by the board's bylaws. Provides for district powers including the following:

- (1) To sue and be sued.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To receive and expend funds collected pursuant to proposed law and in accordance with a budget adopted as provided by proposed law.
- (4) To enter into contracts with individuals or entities, private or public.
- (5) To provide security patrols and other improvements.
- (6) To purchase items and supplies instrumental to achieving the district's purpose.
- (7) To perform or have performed any other function or activity necessary for achieving the district's purpose.

Proposed law authorizes the New Orleans City Council to impose and collect a parcel fee within the district, subject to voter approval, which amount shall be as requested by duly adopted board resolution. Provides that the fee shall be a flat fee per parcel and shall not exceed \$500 per year. Defines a parcel as a lot, a subdivided portion of ground, an individual tract, or a condominium parcel as defined in present law (R.S. 9:1121.103).

Proposed law provides that the amount of the fee may be changed by duly adopted board resolution, not to exceed the maximum amount authorized by proposed law. Provides that the fee shall expire eight years from its initial levy, but may be renewed, subject to voter approval, and that if renewed, the term of the imposition of the fee shall be as provided in the proposition authorizing renewal, not to exceed eight years.

Proposed law requires that the fee be collected in the same manner and at the same time as ad valorem taxes and that any unpaid fee be added to the city tax rolls and enforced with the same authority and subject to the same penalties and procedures as unpaid ad valorem taxes. Proposed law requires that the fee be used solely and exclusively for the district's purpose and benefit. Authorizes the city to retain 1% of the amount collected as a collection fee and requires the city to remit to the district all amounts collected not more than 60 days after collection.

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

Proposed law provides that it is the purpose and intent of proposed law that the additional security and other improvements provided for through the fees authorized by proposed law shall be supplemental to and not in lieu of other governmental services.

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

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

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

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

(Adds R.S. 33:9091.19)