

Regular Session, 2012

SENATE BILL NO. 730

BY SENATOR THOMPSON

SPECIAL DISTRICTS. Creates the Bunches Bend Protection District for the purpose of repairing, improving, and maintaining the Wilson Point Levee System in the Bunches Bend area. (gov sig)

1 AN ACT

2 To enact Chapter 4-A of Title 38 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 38:1401, relative to the creation of the Bunches Bend Protection District; to
4 provide for the purposes, powers, duties, and governance of the district; to provide
5 for the authority to levy taxes under certain conditions; to provide for the issuance
6 of indebtedness; to authorize cooperative endeavors with the owners of certain land;
7 to provide for certain penalties; 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. Chapter 4-A of Title 38 of the Louisiana Revised Statutes of 1950, to be
11 comprised of R.S. 38:1401, is hereby enacted to read as follows:

12 **§1401. Bunches Bend Protection District**

13 **A. Creation. Pursuant to Article VI, Sections 19 and 30 of the**
14 **Constitution of Louisiana, the Bunches Bend Protection District is hereby**
15 **created effective July 15, 2012, as a special district and political subdivision of**
16 **the state of Louisiana in the parish of East Carroll and is hereby granted all of**
17 **the rights, powers, privileges, and immunities accorded by law and the**

1 Constitution of Louisiana to political subdivisions of the state, subject to the
2 limitations provided in this Section for the purpose of repairing, improving, and
3 maintaining the Wilson Point Levee System in the Bunches Bend area.

4 B. The district shall be comprised of the area of the Parish of East
5 Carroll which contains the levees composing the Wilson Point Levee System and
6 the area within the Wilson Point Levee System.

7 C. Governance. (1) In order to provide for the orderly development of
8 the district and effectuation of the purposes of the district, the district shall be
9 administered and governed by a board of six commissioners who shall be
10 owners of property in the district or duly designated representatives of entities
11 which own property within the district, as follows:

12 (a) Two shall be appointed by the governor, to serve at his pleasure.

13 (b) One shall be appointed by the member of the Louisiana House of
14 Representatives whose district encompasses all or the greater portion of the
15 area of the district, to serve at his pleasure.

16 (c) One shall be appointed by the member of the Louisiana Senate whose
17 district encompasses all or the greater portion of the area of the district, to serve
18 at his pleasure.

19 (d) Two shall be appointed by the public utilities which own land and/or
20 property or possess servitudes within the district.

21 (2) The commissioners appointed pursuant to Paragraph (1)(d) shall
22 serve terms of four years beginning July 15, 2012. However, the commissioners
23 may serve until they are reappointed or until their successors are appointed.
24 Any vacancy which occurs shall be filled in the same manner as the original
25 appointment.

26 (3) A majority of the members of the board shall constitute a quorum for
27 the transaction of business and, except as provided for in Subsection E of this
28 Section, the board shall take action by a vote of a majority of the commissioners
29 present. The board shall keep minutes of all meetings and shall make them

1 available for inspection through the board's secretary. The minute books and
2 archives of the district shall be maintained by the board's secretary. The
3 monies, funds, and accounts of the district shall be in the official custody of the
4 board.

5 (4) The board shall adopt bylaws and prescribe rules to govern its
6 meetings. The members of the board shall serve without salary or per diem but
7 shall be entitled to reimbursement for reasonable, actual and necessary
8 expenses incurred in the performance of their duties.

9 (5) The domicile of the board shall be established by the board at a
10 location within East Carroll Parish.

11 (6) The board shall elect from its own members a president, vice
12 president, secretary and treasurer, whose duties shall be common to such offices
13 or as may be provided by bylaws adopted by the district. At the option of the
14 board or as provided in the bylaws, the offices of secretary and treasurer may
15 be held by one person. The board shall hold such meetings as the president
16 deems necessary, or as called by a written petition of a majority of the members
17 of the board, or may hold special meetings as provided in the bylaws. All such
18 meetings shall be public meetings subject to the provisions of R.S. 42:4.1 et seq.

19 D. Rights and powers. In addition to the revenue authority provided for
20 in Subsection E of this Section, the district, acting by and through its board of
21 commissioners, shall have and exercise all powers of a political subdivision and
22 a special district necessary or convenient for the carrying out of its objects and
23 purposes including but not limited to the following:

24 (1) To sue and to be sued.

25 (2) To adopt bylaws and rules and regulations.

26 (3) To receive by gift, grant, donation or otherwise any sum of money,
27 property, aid or assistance from the United States, the state of Louisiana, or any
28 political subdivision thereof, or any person, firm, or corporation.

29 (4) For the public purposes of the district, to enter into contracts,

1 agreements or cooperative endeavors with the state and its political subdivisions
2 or political corporations and with any public or private association,
3 corporation, business entity, or individual.

4 (5) To appoint officers, agents, and employees, prescribe their duties, and
5 fix their compensation.

6 (6) To acquire by gift, grant, purchase, lease, or otherwise such property
7 as may be necessary or desirable for carrying out the objectives and purposes
8 of the district and to mortgage and sell such property.

9 (7)(a) In its own name and on its own behalf to incur debt and to issue
10 bonds, notes, certificates, and other evidences of indebtedness. For this purpose
11 the district shall be deemed and considered to be a public entity and shall, to the
12 extent not in conflict with this Section, have the authority and powers with
13 respect to indebtedness provided for in Chapters 13, 13-A, 14, 14-A, 14-B, 15-A
14 and 18 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, and
15 any other provisions of law providing authority to political subdivisions with
16 respect to issuing indebtedness which is not in conflict with this Section.

17 (b) Except for the approval of the State Bond Commission as may be
18 provided for in law, no other approval shall be required for the issuance of
19 indebtedness of the district.

20 (c) For a period of thirty days from the date of publication of any
21 resolution authorizing the issuance of bonds or other indebtedness of the
22 district, any persons in interest shall have the right to contest the legality of the
23 resolution and the legality of the bond issue for any cause, after which time no
24 one shall have any cause or right of action to contest the legality of such
25 resolution or of the bonds authorized thereby for any cause whatsoever. If no
26 suit, action, or proceeding is begun contesting the validity of the bond issue
27 within the thirty days prescribed in this Subparagraph, the authority to issue
28 the bonds and to provide for the payment thereof, and the legality thereof and
29 all of the provisions of the resolution authorizing the issuance of the bonds shall

1 be conclusively presumed, and no court shall have authority to inquire into such
2 matters.

3 (8) To borrow money and pledge all or part of its taxes, fees, or other
4 revenues as security for debt incurred and for furtherance of the purposes of
5 the district.

6 (9) Establish such funds or accounts as are necessary for the conduct of
7 the affairs of the district.

8 (10) To enter onto private property where necessary to perform its duties
9 as provided for in this Section.

10 (11) To do all things reasonably necessary to accomplish the purposes of
11 the district, except that, notwithstanding any other law to the contrary, neither
12 the board nor the district shall have the power of expropriation.

13 E.(1) For the purposes set forth in this Section, the board of
14 commissioners is hereby granted the authority pursuant to Article VI, Sections
15 19 and 30 of the Constitution of Louisiana to levy and collect by resolution or
16 ordinance adopted by a favorable vote of at least two-thirds of the total number
17 of commissioners, which shall include the favorable vote of both of the
18 commissioners appointed by the public utilities which own land and/or property
19 or possess servitudes within the district, a combination of the following taxes:

20 (a) An ad valorem tax of up to seven hundred fifty mills within the
21 district.

22 (b) An annual tax to be imposed on a per acre basis on land within the
23 district not to exceed thirty dollars per acre.

24 (2)(a) Such combination of taxes shall be levied only after the following:

25 (i) The board of commissioners of the district has adopted an
26 appropriate resolution giving notice of its intention to levy such taxes, which
27 resolution shall include a general description of the taxes to be levied, and notice
28 of this intention shall be published once a week for two weeks in the official
29 journal of the parish governing authority, the first publication to appear at least

1 fourteen days before the public meeting of the board of commissioners at which
2 the board will meet in open and public session to hear any objections to the
3 proposed levy of the tax. The notice of intent so published shall state the date,
4 time, and place of the public hearing.

5 (ii) At the public meeting held pursuant to this Item, the commission
6 shall establish a mail ballot referendum on the imposition of the proposed tax
7 whereby landowners within the district may inform the board of their approval
8 or disapproval of such proposed tax. The mail ballot referendum shall include
9 the following:

10 (aa) A procedure whereby the landowners within the district shall be
11 mailed to the last known address of such landowners as listed on the ad valorem
12 tax assessment rolls of the parish the mail ballot provided for in Subitem (bb)
13 of this Item and written notice of the following:

14 (I) The rate and term of the taxes proposed to be levied.

15 (II) The purposes of such levy.

16 (III) The time period during which the mail balloting shall occur which
17 shall in no case be less than thirty days, with the stipulation that no mail ballots
18 will be accepted which are postmarked after the last day of such time period.

19 (IV) The address to which the ballots are to be mailed.

20 (bb) The form of the mail ballot wherein the landowner shall express his
21 approval or disapproval of the rate and term of the tax. If the landowner is not
22 an individual, the voter shall provide written documentation of his authority to
23 vote on behalf of the entity which is the landowner.

24 (iii) The commission shall not levy any tax pursuant to this Section unless
25 seventy-five percent of the landowners in the district participating in the mail
26 ballot approve the rate and term of the tax.

27 (iv) For purposes of this Paragraph, "landowner" means the following:

28 (I) The individual or individuals who own land in the district.

29 (II) A duly authorized representative of any entity which owns land in

1 the district.

2 **(b) The powers and rights conferred by this Subsection shall be in**
3 **addition to the powers and rights conferred by any other law. This Subsection,**
4 **and any provisions of this Section not inconsistent therewith, does and shall be**
5 **construed to provide a complete and additional method for the levy of the tax.**
6 **No election, proceeding, notice, or approval shall be required for the levy of**
7 **such tax except as provided in this Subsection.**

8 **F. The district may enter into a cooperative endeavor agreement with**
9 **the owner or owners of the levee and the owner or owners of land within two**
10 **hundred fifty feet of such levee whereby the owners agree to all of the following:**

11 **(1) That the district and authorized representatives of the district may**
12 **enter upon any lands, waters, and premises of the owner upon which a project**
13 **for the purpose of repairing, improving, and maintaining such levee system is**
14 **or will be undertaken by the district pursuant to this Section, including a**
15 **provision that the district shall indemnify the owner for any loss or injury**
16 **resulting from entry upon the property and shall make reimbursement for any**
17 **actual damages resulting to lands, waters, and premises as a result of these**
18 **activities.**

19 **(2) That no new objects, works, or structures shall be placed upon the**
20 **land subject to the cooperative endeavor agreement without first obtaining a**
21 **permit or letter of no objection from the district.**

22 **(3) That the owner shall not do, or authorize any person or entity to do,**
23 **any of the following:**

24 **(a) Place or cause to be placed upon or within fifteen feet of any part of**
25 **such levee any object, material, or matter of any kind or character which**
26 **obstructs or interferes with the safety of the levee or is an obstacle to the**
27 **inspection, maintenance, or repair of such levee.**

28 **(b) Tie or moor logs, rafts, boats, watercraft, or floating objects of any**
29 **description to the levees, or, when the water is against the levees, tie or moor**

1 **any floating objects to mooring posts, revetments, trees, or other objects within**
2 **one hundred eighty feet from the crown of such levee.**

3 **(c) When the water is against the levees, drive or push any logs, rafts,**
4 **boats, watercraft, or floating objects of any description onto or against such**
5 **levee.**

6 **(d) Portage boats, watercraft, logs, driftwood, or other floating objects**
7 **over the levees under any circumstances, during the time the water is against**
8 **the levees, or at any other time except at ramps or properly prepared crossings,**
9 **under permits issued by the district for the purpose in cases where the objects**
10 **are very heavy.**

11 **(e) Use explosives to produce heavy detonations for any purpose on such**
12 **land.**

13 **(f) Drill, drive, jet, or otherwise sink oil, gas, or deep water wells within**
14 **two hundred fifty feet of the levee.**

15 **(g) Excavate wells, pumps, reservoirs, fish ponds, drainage canals or**
16 **ditches, other than small seepage ditches, borrow pits, or pits for cesspools or**
17 **privies, or for any other purpose, nearer the levee than one hundred feet from**
18 **the levee's land side.**

19 **(h) Scrape or wear away the surface of the levee or its surfacing of sod**
20 **by tobogganing, dip-netting, or any other form of abuse.**

21 **(i) Break off, disturb, remove, or destroy engineers' or surveyors'**
22 **marker stakes, reference points or bench marks placed on or near the levee.**

23 **(j) Drive or otherwise sink piles within two hundred fifty feet of the levee**
24 **unless he has first received a permit or a letter of no objection from the district.**

25 **(4) That if after forty-eight hours' notice by any district commissioner**
26 **or other authorized representative of the district the object or objects,**
27 **structures, or other obstructions have not been removed, such objects may be**
28 **removed or the menace abated and any damage repaired by the district at the**
29 **expense of the owner and that the objects, structures, or other obstructions may**

1 **be attached and may be removed from the levee or land at the risk and expense**
 2 **of the owner in order to remove the menace to the levee or the obstacle to the**
 3 **repair, improvement or maintenance of the levee.**

4 **G. The provisions of R.S. 38:225(A)(2) through (10), (B), (D)(1), and (E)**
 5 **shall apply to the Wilson Point Levee System in the Bunches Bend area and the**
 6 **Bunches Bend Protection District shall have the authority provided to levee**
 7 **districts in such provisions of law.**

8 **H. The property of the district acquired or held for the purposes of this**
 9 **Section is to be used for an essential public and governmental purpose and such**
 10 **property shall be exempt from all taxes of the state or any of its local**
 11 **governmental or political subdivisions; provided, however, that such exemption**
 12 **shall terminate when the district sells or otherwise disposes of the property to**
 13 **any purchaser or transferee not a public body.**

14 **I. Liberal construction. This Section shall be liberally construed to effect**
 15 **the purposes of the Section.**

16 Section 2. The chief executive of the governing authority of East Carroll Parish shall
 17 call and designate the location of the first meeting of the board of commissioners of the
 18 district at a place to be named by him no later than July 31, 2012. He shall chair the meeting
 19 until the president thereof is elected at such meeting.

20 Section 3. This Act shall become effective upon signature by the governor or, if not
 21 signed by the governor, upon expiration of the time for bills to become law without signature
 22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 24 effective on the day following such approval.

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

DIGEST

Proposed law creates the Bunches Bend Protection District effective July 15, 2012, as a special district and political subdivision of the state for the purpose of repairing, improving, and maintaining the Wilson Point Levee System in the Bunches Bend area.

Proposed law provides that the district shall be comprised of the area of parish of East Carroll which contains the levees composing the Wilson Point Levee System and the area within the Wilson Point Levee System.

Proposed law provides for the district to be administered by a board of six commissioners who shall be owners of property in the district or duly designated representatives of entities which own property within the district, as follows:

1. Two who are appointed by the governor, to serve at his pleasure.
2. One appointed by the member of the House whose district encompasses all or the greater portion of the area of the district, to serve at his pleasure.
3. One appointed by the member of the Senate whose district encompasses all or the greater portion of the area of the district, to serve at his pleasure.
4. Two appointed by the public utilities which own land and/or property or possess servitudes within the district.

The members of the board serve without salary or per diem but are entitled to reimbursement for reasonable, actual, and necessary expenses incurred in the performance of their duties.

A majority of the members of the board constitute a quorum for the transaction of business and, except as provided below for voting on taxes levied by the district, the board takes action by a vote of a majority of the commissioners present.

Proposed law authorizes the board of commissioners to levy and collect by resolution or ordinance adopted by a favorable vote of at least two-thirds of the total number of commissioners, which must include the favorable vote of both of the commissioners appointed by the public utilities, a combination of the following taxes:

1. An ad valorem tax of up to 750 mills within the district.
2. An annual tax to be imposed on a per acre basis on land within the district not to exceed \$30 per acre.

Such combination of taxes can be levied only after the following:

1. The board of commissioners of the district adopts an appropriate resolution giving notice of its intention to levy such taxes, which resolution must include a general description of the taxes to be levied, and notice of this intention must be published once a week for two weeks in the official journal of the parish governing authority, the first publication to appear at least 14 days before the public meeting of the board at which it will meet in open and public session to hear any objections to the proposed levy of the tax. The notice must state the date, time, and place of the public hearing.
2. At the public meeting, the commission is required to establish a mail ballot referendum on the imposition of the proposed tax whereby landowners within the district may inform the board of their approval or disapproval of the proposed tax. The mail ballot referendum must include the following:
 - (a) A procedure whereby the landowners within the district are mailed to their last known address as listed on the ad valorem tax assessment rolls of the parish the mail ballot below and written notice of the following:
 - (i) The rate and term of the taxes proposed to be levied.

- (ii) The purposes of such levy.
 - (iii) The time period during which the mail balloting must occur which can in no case be less than 30 days, with the stipulation that no mail ballots will be accepted which are postmarked after the last day of the time period.
 - (iv) The address to which the ballots are to be mailed.
- (b) The form of the mail ballot wherein the landowner expresses his approval or disapproval of the rate and term of the tax. If the landowner is not an individual, the voter is required to provide written documentation of his authority to vote on behalf of the entity which is the landowner.
3. The commission cannot levy any tax unless 75% of the landowners in the district participating in the mail ballot approve the rate and term of the tax.

"Landowner" is defined as:

1. The individual or individuals who own land in the district.
2. A duly authorized representative of any entity which owns land in the district.

Proposed law grants to the district those powers usually provided to such districts to do all things reasonably necessary to accomplish the purposes of the district. In particular, the district may:

1. In its own name and on its own behalf incur debt and issue bonds, notes, certificates and other evidences of indebtedness. For this purpose the district is deemed and considered to be a "public entity", and to the extent not in conflict with the proposed law, has the authority and powers with respect to indebtedness provided for in Chapters 13, 13-A, 14, 14-A, 14-B, 15-A and 18 of Subtitle III of Title 39 of the Louisiana Revised Statutes and any other provisions of law providing authority to political subdivisions with respect to issuing indebtedness which is not in conflict with the proposed law.
2. Except for the approval of the State Bond Commission, no other approval is required for the issuance of indebtedness of the district.
3. For a period of 30 days from the date of publication of any resolution authorizing the issuance of indebtedness of the district, any persons in interest are allowed to contest the legality of the resolution and the legality of the bond issue for any cause, but after that time no one has cause or right of action to contest their legality.
4. Enter onto private property where necessary to perform its duties as provided for in proposed law.
5. However, neither the board nor the district has the power of expropriation.

Proposed law authorizes the district to enter into a cooperative endeavor agreement with the owner or owners of the levee and the owner or owners of land within 250 feet of such levee, whereby the owners agree to all of the following:

1. That representatives of the district may enter upon any lands, waters, and premises of the owner upon which a project for the purpose of repairing, improving, and maintaining such levee system is or will be undertaken by the district, including a provision that the district will indemnify the owner for any loss or injury resulting from entry upon the property and will make reimbursement for any actual damages

- resulting to lands, waters, and premises as a result of the activities.
2. That no new structures will be placed upon the land subject to the cooperative endeavor agreement without first obtaining a permit or letter of no objection from the district.
 3. That the owner will not do, or authorize any person or entity to do, any of the following:
 - (a) Place or cause to be placed upon or within 15 feet of any part of the levee any object, material, or matter of any kind or character which obstructs or interferes with the safety of the levee or is an obstacle to the inspection, maintenance, or repair of the levee.
 - (b) Tie or moor watercraft or floating objects of any description to the levees, or, when the water is against the levees, tie or moor any floating objects to mooring posts, revetments, trees, or other objects within 180 feet from the crown of the levee.
 - (c) When the water is against the levees, drive or push any watercraft or floating objects of any description onto or against the levee.
 - (d) Portage boats, watercraft, logs, driftwood, or other floating objects over the levee under any circumstances, during the time the water is against the levees, or at any other time except at ramps or properly prepared crossings, under permits issued by the district for the purpose in cases where the objects are very heavy.
 - (e) Use explosives to produce heavy detonations for any purpose on such land.
 - (f) Drill, drive, jet, or otherwise sink oil, gas, or deep water wells within 250 feet of the levee.
 - (g) Excavate wells, pumps, reservoirs, fish ponds, drainage canals or ditches, other than small seepage ditches, borrow pits, or pits for cesspools or privies, or for any other purpose, nearer the levee than 150 feet from the levee's land side.
 - (h) Scrape or wear away the surface of the levee or its surfacing of sod by tobogganing, dip-netting, or any other form of abuse.
 - (i) Break off, disturb, remove, or destroy engineers' or surveyors' marker stakes, reference points or bench marks placed on or near the levee.
 - (j) Drive or otherwise sink piles within 250 feet of the levee unless he has first received a permit or a letter of no objection from the district.
 4. That if after 48 hours' notice by any district commissioner or other authorized representative of the district the objects, structures, or other obstructions have not been removed, such objects may be removed or the menace abated and any damage repaired by the district at the expense of the owner and that the objects, structures, or other obstructions may be attached and may be removed from the levee or land at the risk and expense of the owner in order to remove the menace to the levee or the obstacle to the repair, improvement or maintenance of the levee.

Proposed law provides that the provisions of R.S. 38:225(A)(2) through (10), (B), (D)(1), and (E) apply to the Wilson Point Levee System and the Bunches Bend Protection District has the authority provided to levee districts in such provisions of law.[Those provisions

essentially prohibit non-owners from doing the things listed above and provide a penalty of not more than \$100 dollars for each violation or, in the case of willful and wanton violations, imprisonment for not more than six months, or both. In addition, the district would be authorized to bring a civil action for damages and/or injunctive relief, including but not limited to the issuance of a mandatory injunction. In any suit for the issuance of an injunction, proof of irreparable harm would not be necessary.]

Proposed law provides that the two commissioners appointed by the public utilities which own land and/or property or possess servitudes within the district serve terms of four years beginning July 15, 2012. However, the commissioners serve until they are reappointed or until their successors are appointed. Any vacancy which occurs is to be filled in the same manner as the original appointment.

The board elects from officers from its own members. The board holds such meetings as the president deems necessary, or as called by a written petition of a majority of the members of the board, or may hold special meetings as provided in the bylaws. All such meetings are public meetings subject to the provisions of R.S. 42:4.1 et seq.

The board is required to keep minutes of all meetings and make them available for inspection through the board's secretary. The board must adopt bylaws and prescribe rules to govern its meetings. The domicile of the board is to be established by the board at a location within East Carroll Parish.

Proposed law requires the chief executive of the governing authority of East Carroll Parish to call and designate the location of the first meeting of the board of commissioners of the district at a place to be named by him no later than July 31, 2012. He chairs the meeting until the president thereof is elected at the meeting.

Proposed law provides that the property of the district acquired or held for the purposes of the proposed law is exempt from all taxes of the state or any of its local governmental or political subdivisions; provided, however, that the exemption terminates when the district sells, or otherwise disposes of the property to any purchaser or transferee not a public body.

Proposed law provides that it shall be liberally construed to effect the purposes of the proposed law.

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

(Adds R.S. 38:1401)