

Regular Session, 2012

SENATE BILL NO. 730

BY SENATORS THOMPSON AND RISER

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, 30, and 36 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,
3 and maintaining the Wilson Point Levee System in the Bunches Bend area.

4 B. The district shall be comprised of the following described tract of land
5 situated in a portion of T 22 & 23 N - R 13 E, East Carroll Parish, Louisiana as
6 shown on plat D-1724, file number 4539.2 containing approximately 10,599
7 acres, and being more particularly described as follows: FROM the southeast
8 corner of Section 71, T 22 N – R 13 E, East Carroll Parish, Louisiana run North
9 50°43'51" West approximately 1,105 feet to a point at the intersection of the east
10 toe of the Mississippi River Main Line Levee and a line 15.00 feet south of the
11 southern toe of the Old Levee and THE POINT OF BEGINNING; thence run
12 in a northern direction along the east toe of the Mississippi River Main Line
13 Levee approximately 20,263 feet to a point at the intersection of a line 15.00 feet
14 from the toe of the Old Levee on the unprotected side; thence run along the
15 unprotected side and being 15.00 feet from the toe of the Old Levee
16 approximately 79,421 feet to a point and The Point Of Beginning.

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

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

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

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

29 (d) Two shall be appointed by the public utilities which own land or

1 property or possess servitudes within the district.

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

7 (3) A majority of the members of the board shall constitute a quorum for
8 the transaction of business and, except as provided for in Subsection E of this
9 Section, the board shall take action by a vote of a majority of the commissioners
10 present. The board shall keep minutes of all meetings and shall make them
11 available for inspection through the board's secretary. The minute books and
12 archives of the district shall be maintained by the board's secretary. The
13 monies, funds, and accounts of the district shall be in the official custody of the
14 board.

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

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

21 (6) The board shall elect from its own members a president, vice
22 president, secretary and treasurer, whose duties shall be common to such offices
23 or as may be provided by bylaws adopted by the district. At the option of the
24 board or as provided in the bylaws, the offices of secretary and treasurer may
25 be held by one person. The board shall hold such meetings as the president
26 deems necessary, or as called by a written petition of a majority of the members
27 of the board, or may hold special meetings as provided in the bylaws. All such
28 meetings shall be public meetings subject to the provisions of R.S. 42:4.1 et seq.

29 D. Rights and powers. In addition to the revenue authority provided for

1 in Subsection E of this Section, the district, acting by and through its board of
2 commissioners, shall have and exercise all powers of a political subdivision and
3 a special district necessary or convenient for the carrying out of its objectives
4 and purposes including but not limited to the following:

5 (1) To sue and to be sued.

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

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

10 (4) For the public purposes of the district, to enter into contracts,
11 agreements, or cooperative endeavors with the state and its political
12 subdivisions or political corporations and with any public or private association,
13 corporation, business entity, or individual.

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

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

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

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

1 (c) For a period of thirty days from the date of publication of any
2 resolution authorizing the issuance of bonds or other indebtedness of the
3 district, any persons in interest shall have the right to contest the legality of the
4 resolution and the legality of the bond issue for any cause, after which time no
5 one shall have any cause or right of action to contest the legality of such
6 resolution or of the bonds authorized thereby for any cause whatsoever. If no
7 suit, action, or proceeding is begun contesting the validity of the bond issue
8 within the thirty days prescribed in this Subparagraph, the authority to issue
9 the bonds and to provide for the payment thereof, and the legality thereof and
10 all of the provisions of the resolution authorizing the issuance of the bonds shall
11 be conclusively presumed, and no court shall have authority to inquire into such
12 matters.

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

16 (9) To establish such funds or accounts as are necessary for the conduct
17 of the affairs of the district.

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

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

23 E.(1) For the purposes set forth in this Section, the board of
24 commissioners is hereby granted the authority pursuant to Article VI, Sections
25 19, 30, and 36 of the Constitution of Louisiana to levy and collect by resolution
26 or ordinance adopted by a favorable vote of at least two-thirds of the total
27 number of commissioners, which shall include the favorable vote of both of the
28 commissioners appointed by the public utilities which own land or property or
29 possess servitudes within the district, a combination of the following taxes:

1 (a) An ad valorem tax of up to three hundred eleven mills within the
2 district.

3 (b) An annual tax to be imposed on a per acre basis on land within the
4 district not to exceed thirty dollars per acre levied on cropland as defined by the
5 Farm Service Agency of the United States Department of Agriculture and seven
6 dollars per acre levied on all other land.

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

8 (i) The board of commissioners of the district has adopted an
9 appropriate resolution giving notice of its intention to levy such taxes, which
10 resolution shall include a general description of the taxes to be levied, and notice
11 of this intention shall be published once a week for two weeks in the official
12 journal of the parish governing authority, the first publication to appear at least
13 fourteen days before the public meeting of the board of commissioners at which
14 the board will meet in open and public session to hear any objections to the
15 proposed levy of the tax. The notice of intent so published shall state the date,
16 time, and place of the public hearing.

17 (ii) At the public meeting held pursuant to this Subparagraph, the
18 commission shall establish a mail ballot referendum on the imposition of the
19 proposed tax whereby landowners within the district may inform the board of
20 their approval or disapproval of such proposed tax. The mail ballot referendum
21 shall include the following:

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

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

27 (II) The purposes of such levy.

28 (III) The time period during which the mail balloting shall occur, which
29 shall in no case be less than thirty days, with the stipulation that no mail ballots

1 will be accepted that are postmarked after the last day of such time period.

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

3 (bb) The form of the mail ballot wherein the landowner shall express his
4 approval or disapproval of the rate and term of the tax. If the landowner is not
5 an individual, the voter shall provide written documentation of his authority to
6 vote on behalf of the entity that is the landowner.

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

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

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

12 (II) A duly authorized representative of any entity that owns land in the
13 district.

14 (b) The powers and rights conferred by this Subsection shall be in
15 addition to the powers and rights conferred by any other law. This Subsection,
16 and any provisions of this Section not inconsistent therewith, does and shall be
17 construed to provide a complete and additional method for the levy of the tax.
18 No election, proceeding, notice, or approval shall be required for the levy of
19 such tax except as provided in this Subsection.

20 F. The provisions of R.S. 38:225(A), (B), (D)(1), and (E) shall apply to
21 the Wilson Point Levee System in the Bunches Bend area and the Bunches Bend
22 Protection District shall have the authority provided to levee districts in such
23 provisions of law.

24 G. The property of the district acquired or held for the purposes of this
25 Section is to be used for an essential public and governmental purpose and such
26 property shall be exempt from all taxes of the state or any of its local
27 governmental or political subdivisions. However such exemption shall
28 terminate when the district sells or otherwise disposes of the property to any
29 purchaser or transferee not a public body.

1 **H. Liberal construction. This Section shall be liberally construed to**
 2 **effect the purposes of the Section.**

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

7 Section 3. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 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

Thompson (SB 730)

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 specifies the area of so-called Bunches Bend that will be within the district.

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 311 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 levied on cropland as defined by the Farm Service Agency of the USDA and \$7 per acre levied on all other land.

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 provides that the provisions of R.S. 38:225(A), (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 certain activities on or near the levees to be of repaired, improved and maintained 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)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Reduces the millage which may be levied by the district from 750 mills to 311 mills.
2. Specifies that the annual tax to be imposed on a per acre basis on land within the district cannot exceed \$7 per acre on land which is not cropland as defined by the Farm Service Agency of USDA.
3. Specifies the area of so-called Bunches Bend that will be within the district.
4. Deletes specific authority to enter into cooperative endeavor agreements with owners of the levee concerning certain matters.
5. Includes Const. Art. VI, Sec. 36 as another source of authority for the grant of powers to the district.