

2019 Regular Session

HOUSE BILL NO. 429

BY REPRESENTATIVE STEVE CARTER

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

DISTRICTS/ECONOMIC DEVEL: Authorizes the creation of cooperative economic development districts affiliated with Louisiana public postsecondary education institutions

1 AN ACT

2 To enact R.S. 33:9038.72, relative to cooperative economic development in and around
3 public postsecondary education institutions; to authorize parish governing authorities
4 to create special taxing districts for such purposes; to provide for the governance and
5 powers and duties of such a district, including the authority to levy taxes and special
6 assessments; to authorize such a district to incur debt and to pledge tax increments
7 to repayment thereof; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 33:9038.72 is hereby enacted to read as follows:

10 §9038.72. College economic development districts

11 A. The governing authority of a parish in which a public postsecondary
12 education institution, hereafter in this Section referred to as a "college", is located
13 may create an economic development district that incorporates property owned by
14 the institution to provide for cooperative economic and community development
15 among the district, the college, the parish governing authority, the state, and the
16 owners of property in the district. Hereafter in this Section, the terms "college
17 economic development district" or "district" refer to a district created pursuant to this
18 Section. Any college economic development district is a political subdivision of the
19 state having all of the rights, powers, privileges, and immunities accorded by law and

1 the Constitution of Louisiana to political subdivisions of the state, subject to the
2 limitations provided in this Section. The parish governing authority shall establish
3 the boundaries of a district in the ordinance creating it.

4 B.(1) A college economic development district shall be administered and
5 governed by a board of commissioners, referred to in this Section as the "board".

6 (2) The board shall be comprised as follows:

7 (a) The highest executive officer of the college shall appoint four persons.

8 (b) The member of the parish governing authority whose district includes the
9 official physical address of the college shall appoint one person.

10 (c) The member of the Louisiana House of Representatives whose district
11 includes the official physical address of the college shall appoint one person.

12 (d) The member of the Louisiana Senate whose district includes the official
13 physical address of the college shall appoint one person.

14 (3) Members shall serve five-year terms after initial terms as provided by the
15 parish governing authority in the ordinance creating the district. Each member of the
16 board shall continue to serve until reappointed or a successor is duly appointed. Any
17 vacancy in the membership of the board shall be filled in the manner of the original
18 appointment for the unexpired term. If an appointment to fill a vacancy is not made
19 within sixty days, the board shall appoint an interim successor to serve until the
20 position is filled by the appointing authority.

21 (4) Any member of the board may be removed by a three-fourths vote of the
22 remaining membership of the board for cause, which cause may include failure to
23 attend at least one-half of the meetings of the board in a two-year period.

24 (5) The members of the board shall serve without salary or per diem. The
25 board may reimburse any member for reasonable, actual, and necessary expenses
26 incurred in the performance of his duties pursuant to this Section.

27 (6) The board shall elect from its members a president, a vice president, a
28 secretary, and a treasurer, whose duties shall be those common to such offices. At

1 the option of the board, the offices of secretary and treasurer may be held by one
2 person.

3 (7) The board shall meet in regular session at least once a year and shall also
4 meet in special session as often as the president of the board convenes the board or
5 upon the written request of at least three members. A majority of the members of the
6 board shall constitute a quorum for the transaction of business. The board shall keep
7 minutes of all meetings and shall make them available for inspection through the
8 board's secretary or secretary-treasurer, who shall also maintain the minute books
9 and archives of the district. The monies, funds, and accounts of the district shall be
10 in the official custody of the board.

11 (8) The domicile of the board shall be established by the board at a location
12 within the district. The official journal of the district is the official journal of the
13 parish where the domicile of the board is located.

14 C. A college economic development district, acting by and through its board,
15 shall have and exercise all powers of a political subdivision necessary or convenient
16 for the carrying out of its objects and purposes, including but not limited to the
17 following:

18 (1) To sue and to be sued.

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

20 (3) To acquire by gift, grant, purchase, or otherwise all property, including
21 rights of way, and to hold and use any franchise or property, movable, immovable,
22 or mixed, corporeal or incorporeal, or any interest therein.

23 (4) To enter into contracts for the purchase, acquisition, construction, and
24 improvement of works and facilities necessary in connection with the purposes of the
25 district.

26 (5) In its own name and on its own behalf to incur debt and to issue revenue
27 bonds, special assessment bonds, certificates, notes, and other evidences of
28 indebtedness and to levy and cause to be collected certain taxes as provided in this
29 Section and as may be provided by general law.

1 (6) To regulate the imposition of fees and rentals charged by the district for
2 its facilities and services rendered by it.

3 (7) To borrow money and pledge all or part of its revenues, leases, rents, or
4 other advantages as security for such loans.

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

7 (9) To develop public improvement projects for the benefit of the respective
8 college, either directly with the respective college or through one or more private
9 foundations affiliated with the respective college, or both.

10 (10) To exercise any and all of the powers granted to an economic
11 development district as if the district were an economic development district
12 established pursuant to Part II of this Chapter, including but not limited to the powers
13 of tax increment financing pursuant to R.S. 33:9038.33 and 33:9038.34 and the
14 power to levy taxes within the district pursuant to R.S. 33:9038.39. The district shall
15 exercise such powers in accordance with the provisions of Part II of this Chapter.

16 (11) To exercise any and all of the powers granted to a community
17 development district as if the district were a community development district
18 established pursuant to Chapter 27-B of this Title, including but not limited to the
19 power to levy special assessments on property within the district pursuant to R.S.
20 33:9039.29. The district shall exercise such powers in accordance with the
21 provisions of Chapter 27-B of this Title.

22 D.(1) It is expressly provided that any sales and use tax levied by a college
23 economic development district or any subdistrict created by the district may exceed
24 the limitation set forth by Article VI, Section 29(A) of the Constitution of Louisiana
25 and shall be imposed, collected, and enforced subject to the terms of the resolution
26 imposing the tax and the provisions of Chapter 2 of Subtitle II of Title 47 of the
27 Louisiana Revised Statutes of 1950.

28 (2)(a) A college economic development district and any subdistrict created
29 by the district may levy taxes or assessments of any type only after the board has

1 adopted an appropriate resolution giving notice of its intention to levy such taxes or
2 assessments. The resolution shall include a general description of the taxes or
3 assessments to be levied. The district or subdistrict shall give notice of its intention
4 by publication once a week for two weeks in the official journal of the district, the
5 first publication to appear at least fourteen days before the public meeting of the
6 board at which the board shall hear any objections to the proposed taxes or
7 assessments. The notice of intent so published shall state the date, time, and place
8 of the public hearing.

9 (b) Such taxes or assessments may be levied only after the board has called
10 a special election submitting the proposition for the levy of such taxes or assessments
11 to the qualified electors of the district or subdistrict, as applicable, and the
12 proposition has received the favorable vote of a majority of the electors voting in the
13 election. However, if there are no qualified electors in the district or subdistrict, as
14 applicable, as certified by the registrar of voters, no such election is required, but the
15 taxes or assessments shall not be levied unless approved by the governing authority
16 of the parish.

17 (c) The powers and rights conferred by this Paragraph shall be in addition
18 to the powers and rights conferred by any other general or special law. This
19 Paragraph does and shall be construed to provide a complete and additional method
20 for the levy of any taxes or assessments. No election, proceeding, notice, or approval
21 shall be required for the levy of such taxes or assessments except as provided in this
22 Paragraph.

23 E. A college economic development district may create subdistricts as
24 provided in this Subsection. The district shall publish notice of its intent to create
25 a subdistrict in the official journal of the district. At least ten days after publication
26 of such notice, the board shall conduct a public hearing on the question of creating
27 the subdistrict. Thereafter, the board may designate one or more areas within the
28 boundaries of the district as subdistricts of the district. Each subdistrict shall
29 constitute a political subdivision of the state and shall be governed by the board.

1 Each subdistrict shall have the same powers as the district and shall be given a
2 suitable name as the board may designate. Hereafter in this Section, any reference
3 to the district includes any subdistrict created by the district.

4 F.(1) The district may issue and sell from time to time bonds, notes, renewal
5 notes, refunding bonds, interim certificates, certificates of indebtedness, certificates
6 of participation, debentures, warrants, commercial paper, or other obligations or
7 evidences of indebtedness to provide funds for and to fulfill and achieve its public
8 purpose or corporate purposes, as set forth in this Section, including but not limited
9 to the payment of all or a portion of the costs of a project, to provide amounts
10 necessary for any corporate purposes, including necessary and incidental expenses
11 in connection with the issuance of the obligations, the payment of principal and
12 interest on the obligations of the district, the establishment of reserves to secure such
13 obligations, and all other purposes and expenditures of the district incident to and
14 necessary or convenient to carry out its public functions or corporate purposes, and
15 any credit enhancement for said obligations.

16 (2) Except as may otherwise be provided by the board, all obligations issued
17 by the district shall be negotiable instruments and payable solely from the revenues
18 of the district as determined by the board, or from any other source that may be
19 available to the district but shall not be secured by the full faith and credit of the state
20 or the parish governing authority.

21 (3) Obligations shall be authorized, issued, and sold by a resolution or
22 resolutions of the board. Such bonds or obligations may be of such series, bear such
23 date or dates, mature at such time or times, bear interest at such rate or rates,
24 including variable, adjustable, or zero interest rates, be payable at such time or times,
25 be in such denominations, be sold at such price or prices, at public or private
26 negotiated sale, after advertisement as is provided for in R.S. 39:1426, be in such
27 form, carry such registration and exchangeability privileges, be payable at such place
28 or places, be subject to such terms of redemption, and be entitled to such priorities
29 on the income, revenue, and receipts of, or available to, the district as may be

1 provided by the board in the resolution or resolutions providing for the issuance and
2 sale of the bonds or obligations of the district.

3 (4) The obligations of the district shall be signed by such officers of the
4 board by either manual or facsimile signatures as shall be determined by resolution
5 or resolutions of the board and shall have impressed or imprinted thereon the seal of
6 the district or a facsimile thereof.

7 (5) Any obligations of the district may be validly issued, sold, and delivered,
8 notwithstanding that one or more of the officers of the board signing such
9 obligations, or whose facsimile signature or signatures may be on the obligations,
10 shall have ceased to be such officer of the board at the time such obligations shall
11 actually have been delivered.

12 (6) Obligations of the district may be sold in such manner and from time to
13 time as may be determined by the board to be most beneficial, subject to approval
14 of the State Bond Commission, and the district may pay all expenses, premiums,
15 fees, or commissions which it may deem necessary or advantageous in connection
16 with the issuance and sale thereof.

17 (7) The board may authorize the establishment of a fund or funds for the
18 creation of a debt service reserve, a renewal and replacement reserve, or such other
19 funds or reserves as the board may approve with respect to the financing and
20 operation of any project funded with the proceeds of such bonds and as may be
21 authorized by any bond resolution, trust agreement, indenture of trust or similar
22 instrument or agreement pursuant to the provisions of which the issuance of bonds
23 or other obligations of the district or subdistrict may be authorized.

24 (8) Any cost, obligation, or expense incurred for any of the purposes or
25 powers of the district specified in this Subsection shall be a part of the project costs
26 and may be paid or reimbursed as such out of the proceeds of bonds or other
27 obligations issued by the district; however, no portion of any state sales taxes made
28 directly available to the district pursuant to an agreement with the state shall be used
29 by the district to pay the costs of constructing or operating any privately owned hotel

1 located within the district, without the consent of the Joint Legislative Committee on
2 the Budget or its successor.

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

13 (10) Neither the members of the board nor any person executing the bonds
14 shall be personally liable for the bonds or be subject to any personal liability by
15 reason of the issuance thereof. No earnings or assets of the district shall accrue to
16 the benefit of any private persons. However, the limitation of liability provided for
17 in this Paragraph shall not apply to any gross negligence or criminal negligence on
18 the part of any member of the board or person executing the bonds.

19 (11) All obligations authorized to be issued by the district pursuant to the
20 provisions of this Subsection, together with interest thereof, income therefrom, and
21 gain upon the sale thereof shall be exempt from all state and local taxes.

22 (12) The state and all public officers, any parish, municipality, or other
23 subdivision or instrumentality of the state, any political subdivision, any bank,
24 banker, trust company, savings bank and institution, building and loan association,
25 savings and loan association, investment company or any person carrying on a
26 banking or investment business, any insurance company or business, insurance
27 association, and any person carrying on an insurance business, and any executor,
28 administrator, curator, trustee, and other fiduciary, and any retirement system or
29 pension fund may legally invest any sinking funds monies, or other funds belonging

1 to them or within their control in any bonds or other obligations issued by the district
 2 pursuant to the provisions of this Subsection, and such bonds or other obligations
 3 shall be authorized security for all public deposits. It is the purpose of this Section
 4 to authorize such persons, firms, corporations, associations, political subdivisions
 5 and officers, or other entities, public or private, to use any funds owned or controlled
 6 by them, including but not limited to sinking, insurance, investment, retirement,
 7 compensation, pension and trust funds, and funds held on deposit, for the purchase
 8 of any such bonds or other obligations of the district or subdistrict, and that any such
 9 bonds shall be authorized security for all public deposits. However, nothing
 10 contained in this Section with regard to legal investments or security for public
 11 deposits shall be construed as relieving any such person, firm, corporation, or other
 12 entity from any duty of exercising reasonable care in selecting securities.

13 G. A college economic development district shall dissolve and cease to exist
 14 upon the later to occur of either one year after the date on which all loans, bonds,
 15 notes, and other evidences of indebtedness of the district, including refunding bonds,
 16 are paid in full as to both principal and interest, or fifty years from the creation of the
 17 district.

18 H. This Section, being necessary for the welfare of the state, the parish, and
 19 its residents, shall be liberally construed to effect the purposes thereof.

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)]

HB 429 Original

2019 Regular Session

Steve Carter

Abstract: Authorizes parishes in which public postsecondary education institutions are located to create special districts to provide for cooperative economic development among the institution, parish, and other entities.

Proposed law authorizes the governing authority of a parish in which a public postsecondary education institution, a "college", is located to create an economic development district that incorporates property owned by the college. The purpose of such a district is to provide for cooperative economic and community development among the district, the college, the parish governing authority, the state, and the owners of property in the district. The parish governing authority shall establish the boundaries of a district in the ordinance creating it.

Proposed law provides that such a district is governed by a board of commissioners, comprised as follows:

- (1) The highest executive officer of the college appoints four persons.
- (2) The member of the parish governing authority whose district includes the official physical address of the college appoints one person.
- (3) The member of the Louisiana House of Representatives whose district includes the official physical address of the college appoints one person.
- (4) The member of the Louisiana Senate whose district includes the official physical address of the college appoints one person.

Proposed law provides that commissioners serve five-year terms, with vacancies filled in the manner of the original appointment. However, if an appointment to fill a vacancy is not made within 60 days, the board shall appoint an interim successor to serve until the position is filled by the appointing authority. Authorizes removal of a commissioner for cause by a 3/4ths vote of the board. Provides that commissioners serve without compensation but authorizes reimbursement of expenses.

Proposed law provides that the official journal of such a district is the official journal of the parish where the domicile of the board is located. Provides that a district created pursuant to proposed law is a political subdivision of the state and has the powers of a political subdivision. Provides that such powers include the power:

- (1) To develop public improvement projects for the benefit of the respective college, either directly with the respective college or through one or more private foundations affiliated with the respective college, or both.
- (2) To exercise the powers granted to an economic development district established pursuant to present law. (Present law authorizes such a district to utilize tax increment financing. Further authorizes a district to levy ad valorem taxes up to five mills, sales taxes up to 2%, and hotel occupancy taxes up to 2%, all subject to voter approval unless there are no voters in the district.)
- (3) To exercise the powers granted to a community development district established pursuant present law. (Present law authorizes such a district to finance, construct, and operate various public facilities and authorizes the levy of special property assessments, based on proportionate benefit from the facility, to fund such activities.)

Proposed law provides procedures for the levy of any tax or assessment, including a requirement for voter approval unless there are no voters in the district.

Proposed law authorizes such a district to create subdistricts which are governed by the board of commissioners and have the same powers as the district.

Proposed law authorizes the district to issue bonds and to otherwise incur debt. Provides requirements and procedures therefor.

Proposed law provides that such a district shall dissolve and cease to exist upon the later to occur of either one year after the date on which all debt of the district is paid in full or 50 years from the creation of the district.

(Adds R.S. 33:9038.72)