

Regular Session, 2005

SENATE BILL NO. 348

BY SENATOR CRAVINS

SPECIAL DISTRICTS. Creates the Opelousas Downtown Development District. (gov sig)

AN ACT

To enact R.S. 33:2740.39, relative to special districts; to create the Opelousas Downtown Development District; to provide for the purpose and governance of the district; to provide for its rights, powers, and duties, including the authority to tax, subject to the approval of the district voters; to provide for the boundaries of the district; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:2740.39 is hereby enacted to read as follows:

**§2740.39. Opelousas Downtown Development District**

**A. There is hereby created a body politic and corporate of the state which shall exist in perpetuity and be known as the Opelousas Downtown Development District, hereinafter referred to as the "district." The district shall be composed of the existing Historic District, bordered to the north by the EW Railroad, to the south by Bertheaud Street, to the west by the NS Railroad, and to the east by Lombard Street. The district shall be a political subdivision of the state as defined in the Constitution of Louisiana. The district, acting through its**

1 board of commissioners as the governing authority of the district, is hereby  
2 granted all of the rights, powers, privileges, and immunities accorded by laws  
3 and the Constitution of Louisiana to political subdivisions of the state, including  
4 but not limited to the power to incur debt and issue revenue and general  
5 obligation bonds, to issue certificates of indebtedness, to issue bonds and  
6 certificate anticipation notes, to issue refunding bonds, and the power of  
7 taxation, subject to the limitations hereinafter provided.

8 **B. The district is created for the objectives and purposes of:**

9 (1) Reserving the deterioration in property value in the district to ensure  
10 the public health, safety and welfare of the city of Opelousas, and to strengthen  
11 downtown as the city's center of commercial, civic and cultural activity.

12 (2) Accepting title from or contracting with the city of Opelousas  
13 concerning any or all real and personal property and improvements owned or  
14 acquired by the city of Opelousas.

15 (3) Acquiring land, real and personal property, and improvements from  
16 any other sources, entities, or persons.

17 (4) Utilizing any land, real or personal property, and improvements to  
18 enhance economic benefits generated in the city of Opelousas through  
19 diversified activities, including but not limited to:

20 (a) Planning land use and development to foster creation of new jobs,  
21 economic development, industry, health care, commerce, manufacturing,  
22 tourism, relocation of people and businesses to the area, shipbuilding, aviation,  
23 military, warehousing, transportation, offices, recreation, housing development,  
24 conservation, residential development, and subdivision development.

25 (b) Constructing, operating, and maintaining facilities, improvements,  
26 and infrastructure, including buildings, roads, bridges, drainage, and utilities.

27 (c) Planning, developing, building, constructing, operating, regulating,  
28 maintaining, selling, and transferring any residential or subdivision land, real  
29 and personal property, and improvements.

1           C.(1) The district shall be governed by a board of commissioners,  
2           hereinafter referred to as the "board," consisting of seven members. The  
3           members shall be appointed as follows:

4           (a) One member appointed by the Opelousas Chamber of Commerce.

5           (b) One member appointed by the St. Landry Economic Industrial  
6           Development District.

7           (c) One member appointed by the banking profession within the district.

8           (d) One member appointed by the building/development profession  
9           within the district.

10          (e) One member appointed by the Opelousas Office of Community  
11          Development.

12          (f) Two members appointed by the mayor of the city of Opelousas.

13          (2) The city's Community Development Director shall serve as interim  
14          Downtown Development Director until January 2006.

15          (3) Each member appointed to the board shall be a citizen of the United  
16          States, a domiciliary of and a qualified voter in the city of Opelousas for at least  
17          one year preceding the date of appointment, and shall remain a domiciliary of  
18          and a qualified voter in the city of Opelousas during the entirety of the term of  
19          office.

20          (4)(a) The initial appointees shall draw lots to determine their terms of  
21          office as follows:

22               (1) One member shall serve a two year term.

23               (2) One member shall serve a three year term.

24               (3) One member shall serve a four year term.

25               (4) Two members shall serve a five year term.

26               (5) Two members shall serve a six year term.

27               (b)The term of office of members of the board shall be four years.

28          (5) Any member who misses fifty percent of the board's meetings,  
29          regular or special, in any calendar year shall be disqualified and removed

1 automatically from office and that person's position shall be vacant, as of the  
2 first day of the next calendar month. Such vacated position shall be filled by  
3 appointment of the mayor and confirmed by the town council for the balance  
4 of the vacated term. The former member shall not be eligible for reappointment  
5 until expiration of the balance of the vacated term.

6 (6) Any vacancy in the membership of the board occurring by reason of  
7 the expiration of the term of office, death, resignation, disqualification, or  
8 otherwise shall be filled by appointment of the mayor and confirmed by the  
9 town council within sixty days after receipt of written notification of the  
10 vacancy. In the event that the mayor and council fail to fill the vacancy within  
11 sixty days after receipt of written notification of the vacancy, the board shall  
12 appoint an interim successor to serve on the board until the position is filled by  
13 mayor and council.

14 (7) Members of the board shall serve without compensation, shall have  
15 the power to organize and reorganize the executive, administrative, clerical, and  
16 other departments and forces of the district, and to fix the duties, powers, and  
17 compensation of all employees, agents, and consultants of the district. The  
18 board may reimburse any member for expenses actually incurred with the  
19 authorization of the board in the performance of duties on behalf of the district.

20 (8) The board shall elect yearly from its number, a chairman, vice  
21 chairman, secretary, and treasurer and shall establish their duties as may be  
22 regulated by rules adopted by the board. The offices of secretary and treasurer  
23 may be held by the same person. The board shall meet in regular session once  
24 each month and also shall meet in special session as convened by the chairman  
25 or upon written notice of three members. A majority of the commission  
26 members, not including vacancies, shall constitute a quorum. All actions of the  
27 board shall be approved by the affirmative vote of a majority of the members  
28 present and voting. However, no action of the board shall be authorized on the  
29 following matters unless approved by a majority of the total board

**membership:**

**(a) Adoption of bylaws and other rules and regulations for conduct of the district's business.**

**(b) Hiring or firing of the district's administrator.**

**(c) The incurring of funded, general, or bonded debt.**

**(d) Levying of taxes and call for any tax or other election.**

**(e) Adoption or amendment of the annual budget.**

**(f) Sale, lease, or alienation of real property or improvements.**

**(9) Vote by proxy shall not be permitted. Any member may request a recorded vote on any resolution or action of the district.**

**(10) The hiring or firing of the district's administrator shall be authorized by a super majority of two-thirds of the total board membership.**

**(11) The board shall cause minutes and a record to be kept of all its proceedings, and it shall select a newspaper of general circulation within its territorial jurisdiction as its official journal in which it shall publish its minutes, and in which it shall publish all official notices as are required by law.**

**(12) All meetings of the board shall be subject to state laws relative to open meetings, including R.S. 42:5.**

**D. The exercise by the board of the powers conferred shall be deemed and held to be an essential governmental function of the state. As the exercise of the powers granted hereby will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, the district shall not be required to pay any taxes, including but not limited to sales and use taxes, ad valorem, occupational licensing, income, or any other taxes of any kind or nature, or assessments upon any property acquired or used by the district under the provisions of this Section, or upon the income therefrom, and any property acquired or used by the district under the provisions of this Section and the income therefrom. Any bonds, certificates, or other evidences of indebtedness**

1 issued by the district and the income therefrom shall be exempt from taxation  
2 by the state and by any parish, municipality, or other political subdivision of the  
3 state. The district shall not be deemed to be a public utility and shall not be  
4 subject in any respect to the authority, control, regulation, or supervision of the  
5 Louisiana Public Service Commission.

6 E. In addition to the powers and duties elsewhere granted in this Section,  
7 the board is hereby granted and shall have and may exercise all powers  
8 necessary or convenient for the carrying out of its objectives and purposes,  
9 including but not limited to the following:

10 (1) To sue and be sued, and as such, to stand in judgment.

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

12 (3) To acquire by gift, grant, purchase, lease, or otherwise and to hold  
13 and use any property, real, personal, mixed, tangible, or intangible, or any  
14 interest therein, necessary or desirable for carrying out the objects and  
15 purposes of the district.

16 (4) To sell, transfer, or convey any property acquired by it, or any  
17 interest therein, at any time to accomplish the objects and purposes of the  
18 district subject to applicable law. Any such sale, transfer, or conveyance shall  
19 provide for a fair and equitable return of revenue to the district.

20 (5) To lease or sublease all or any portion of any property for a term not  
21 exceeding ninety-nine years at a fixed or variable rental subject to applicable  
22 law. Any such lease entered into shall provide for a fair and equitable return of  
23 revenue to the district.

24 (6)(a) To sell, lease for a term of up to ninety-nine years, exchange, or  
25 otherwise dispose of or transfer to or with other political corporations of this  
26 state or private persons at public or private sale any residential or subdivision  
27 land, property, improvements, or portions thereof, including real property,  
28 which is, in the opinion of the board of commissioners, appropriate to  
29 accomplish the objectives and purposes of the district.

1           **(b) Prior to any disposition or transfer of property pursuant to this**  
2           **Paragraph, a majority of the total board membership shall approve the**  
3           **disposition or transfer and fix the price and terms of the sale, lease, exchange,**  
4           **or other contract to be made with reference to the property. Such disposition**  
5           **or transfer shall not require advertisement or public bids nor require any notice**  
6           **to be published in a newspaper or to be posted in any public place.**

7           **(c) Any sale of industrial land shall be in accordance with laws providing**  
8           **for the disposition or transfer of such land.**

9           **(7) To convey to the United States, the state, or to any political**  
10           **subdivision of the state, any land, property, right-of-way, easement, servitude,**  
11           **or other thing of value, which the district may own or acquire, for use by said**  
12           **governmental entity to accomplish the objectives and purposes of the district.**

13           **(8) To make and collect reasonable charges for the use of property of the**  
14           **district and for services rendered by the district; and to regulate fees or rentals**  
15           **charged for use of privately owned facilities located on property owned or sold**  
16           **by the district when such facilities are offered for use by the public or by a**  
17           **private industrial, commercial, research, or other economic development entity**  
18           **or activity.**

19           **(9) To enter into contracts to achieve the district's objectives and**  
20           **purposes, including but not limited to contracts for professional and other**  
21           **services and for the purchase, lease, acquisition, sale, construction, operation,**  
22           **maintenance, and improvements of land, public works, and facilities, as the**  
23           **district may deem necessary or convenient to accomplish the objectives and**  
24           **purposes of the district, subject to the Public Bid Law, R.S. 38:2211 et seq.**

25           **(10) To plan, develop, regulate, operate, and maintain activities and**  
26           **planned land uses to foster creation of new jobs, economic development,**  
27           **industry, health care, commerce, manufacturing, tourism, relocation of people**  
28           **and businesses to the area, shipbuilding, aviation, military, warehousing,**  
29           **transportation, offices, recreation, housing development, and conservation.**

1           (11) To acquire land and improvements to construct, operate, and  
2           maintain facilities, improvements, and infrastructure, including buildings,  
3           roads, bridges, drainage, and utilities, and to perform other functions and  
4           activities on property owned or leased by the district to accomplish the  
5           objectives and purposes of the district and to protect the public health and  
6           welfare.

7           (12) In its own name and behalf, to incur debt, and issue general  
8           obligation bonds, under the authority of and subject to the provisions of Article  
9           VI, Section 33 of the Constitution of Louisiana, and Subpart A of Part III of  
10           Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, for  
11           the establishment, operation, and maintenance of district property or to carry  
12           out the other public purposes of this Section, and to issue revenue bonds,  
13           borrow money, and issue certificates of indebtedness, notes, and other debt  
14           obligations as evidence thereof and provide for the manner and method of  
15           repayment.

16           (13) To require and issue licenses.

17           (14) To levy annually and cause to be collected an ad valorem tax,  
18           provided that the amount, term, and purpose of said tax, as set out in a  
19           proposition submitted to a vote in accordance with the Louisiana Election Code,  
20           shall be approved by a majority of the qualified electors voting in an election  
21           held for that purpose.

22           (15)(a) To levy and collect a sales and use tax within the boundaries of  
23           the district for such purposes and at such rate as provided by the proposition  
24           authorizing its levy, not exceeding one percent, which tax may exceed the  
25           limitation set forth in the Constitution of Louisiana, provided the proposition  
26           submitted to a vote in accordance with the Louisiana Election Code shall be  
27           approved by a majority of the qualified electors voting in an election held for  
28           that purpose.

29           (b) The tax shall be levied upon the sale at retail, the use, the lease or



1       rental, the consumption, the distribution, and storage for use or consumption  
2       of tangible personal property, and upon the sales of services within the district,  
3       all as presently defined in R.S. 47:301 et seq.

4               (c) Except where inapplicable, the procedure established by R.S. 47:301  
5       et seq. shall be followed in the imposition, collection, and enforcement of the tax,  
6       and procedural details necessary to supplement those Sections and to make  
7       them applicable to the tax herein authorized shall be fixed in the resolution  
8       imposing the tax.

9               (d) The tax shall be imposed and collected uniformly throughout the  
10       district.

11              (e) Any tax levied under this Paragraph shall be in addition to all other  
12       taxes which the parish or any other political subdivision within St. Landry  
13       Parish are now or hereafter authorized to levy and collect.

14              (16) To develop, activate, construct, exchange, acquire, improve, repair,  
15       operate, maintain, lease, mortgage, sell, and grant a security device affecting the  
16       movable and immovable property, servitudes, facilities, and works within the  
17       district under such terms and conditions as the district may deem necessary or  
18       appropriate for any public purpose, including industrial, residential,  
19       subdivision, and commercial development.

20              (17) After notice and public hearing, to designate one or more project  
21       areas within the boundaries of the district, each of which designated project  
22       areas shall constitute a political subdivision of the state, governed by the board  
23       with the power to incur debt, issue certificates, issue revenue and general  
24       obligation bonds, as well as refunding bonds, and levy sales and use taxes within  
25       its boundaries, in the same manner and on the same conditions as the district  
26       is authorized to do within the boundaries of the district. Each designated area  
27       shall be given a name and designated as "Opelousas Downtown Development  
28       Subdistrict No. \_\_\_\_".

29              (18) To borrow money and to pledge or grant a security device affecting

1 all or part of its revenues, leases, rents, and other advantages as security for  
2 such loans.

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

5 F.(1) In addition to the authority contained herein or granted by other  
6 law, the district and any subdistrict of the district may issue revenue bonds to  
7 acquire, purchase, lease, construct, or improve housing, residential  
8 development, subdivision development, commercial, research, industrial, or  
9 other plant sites and buildings, or other capital improvements authorized in this  
10 Section, including energy and pollution abatement, and control facilities and  
11 necessary property and appurtenances thereto; and may sell, lease, sublease, or  
12 otherwise dispose of by suitable and appropriate contract to any enterprise  
13 locating or existing within the jurisdiction of the district, or the respective  
14 subdistrict, such sites, buildings, or facilities and appurtenances thereto, all or  
15 severally. The funds derived from the sale of such bonds may be disbursed in  
16 whole or in part upon delivery of the bonds as shall be provided in the contract  
17 between the district, or respective subdistrict, and the residential, commercial,  
18 research, industrial, or other enterprise to be aided, encouraged, or benefitted.

19 (2) Bonds issued under this Section shall be authorized by resolution of  
20 the district, or respective subdistrict, and shall be limited obligations of the  
21 district, or respective subdistrict, the principal of and interest on which shall be  
22 payable solely from the income and revenue derived from the sale, lease, or  
23 other disposition of the project or facility to be financed by the bonds issued  
24 hereunder, or from the income and revenue derived from the sale, lease, or  
25 other disposition of any existing project or facility acquired, constructed, and  
26 improved under the provision of this Section. However, in the discretion of the  
27 district, or respective subdistrict, the bonds may be additionally secured by  
28 mortgage or other security device covering all or part of the project from which  
29 the revenues so pledged may be derived. Any refunding bonds issued pursuant

1 to this Subsection shall be payable from any source described above or from the  
2 investment of any of the proceeds of the refunding bonds authorized under this  
3 Section and shall not constitute an indebtedness or pledge of the general credit  
4 of the district, or respective subdistrict, within the meaning of any constitutional  
5 or statutory limitation of indebtedness and shall contain a recital to that effect.  
6 Bonds of the district, or respective subdistrict, shall be issued in such form, shall  
7 be in such denominations, shall bear interest, shall mature in such manner, and  
8 shall be executed by one or more members of the board of the body as provided  
9 in the resolution authorizing the issuance thereof. The bonds may be subject to  
10 redemption at the option of and in the manner determined by the board in the  
11 resolution authorizing the issuance thereof.

12 (3) No bonds or other evidences of indebtedness may be issued under this  
13 Subsection without the prior approval of the State Bond Commission of the  
14 terms and provisions thereof.

15 (4) Bonds issued under this Subsection shall be issued, sold, and  
16 delivered in accordance with the terms and provisions of a resolution adopted  
17 by the board. The resolution shall be published in a newspaper of general  
18 circulation within the jurisdiction of the district, or respective subdistrict, and  
19 for a period of thirty days after said publication, any interested citizen may  
20 bring an action to contest the bonds and the security therefor, as provided in the  
21 Constitution of Louisiana. If, after the expiration of thirty days, no suit has been  
22 filed, the issuance, sale, and security of the bonds shall be incontestable, and no  
23 court shall have authority to entertain any action questioning or contesting such  
24 matters.

25 (5) Bonds, certificates, or other evidences of indebtedness issued by the  
26 district or any subdistrict of the district, under this Section are deemed to be  
27 securities of public entities within the meaning of Chapters 13 and 13-A of Title  
28 39 of the Louisiana Revised Statutes of 1950, and shall be subject to defeasance  
29 in accordance with the provisions of Chapter 14 of Title 39 of the Louisiana

**Revised Statutes of 1950, and may also be issued as short term revenue notes of a public entity under Chapter 15-A of Title 39 of the Louisiana Revised Statutes of 1950.**

**G. No bonds, other debt obligations, or contracts of the district shall be a charge upon the income, property, or revenue of the city of Opelousas; nor shall any obligations of the district be obligations of the city of Opelousas.**

**H. The board shall be the appropriate governing body for all purposes provided in the Louisiana Enterprise Zone Act, R.S. 51:1781 et seq., within the area comprised of property owned and formerly owned by the district, and shall have the power to perform all acts specified by applicable laws and regulations to achieve such purpose.**

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

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

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#### DIGEST

Proposed law provides for the following:

Creates the city of Opelousas Downtown Development District.

Specifies the composition and powers of the board responsible for managing the affairs of the district. Provides that a seven member board shall be appointed as follows:

- (a) One member appointed by the Opelousas Chamber of Commerce.
- (b) One member appointed by the St. Landry Economic Industrial Development District.
- (c) One member appointed from the banking profession within the district.
- (d) One member appointed from the building/development profession within the district.
- (e) One member appointed from the Opelousas Office of Community Development.

- (f) Two members appointed by the mayor of the city of Opelousas.

Authorizes the district to sue and be sued; to adopt bylaws and rules and regulations; to receive by gift, grant, donation, or otherwise any sum of money, property, aid or assistance from the United States, the state of Louisiana, or any political subdivision thereof, or any person, firm or corporation; to enter into contracts, agreements or cooperative endeavors with the state and its political subdivisions or political corporations and with any public or private association, corporation, business entity or individual. Further authorizes the district to appoint officers, agents, and employees, and prescribe their duties; to acquire by gift, grant, purchase, lease, or otherwise such property as may be necessary or desirable for carrying out the objectives and purposes of the district.

Authorizes the district to levy and collect annually an ad valorem tax, provided that the amount, term, and purpose of said tax, as set out in a proposition submitted to a vote in accordance with the Louisiana Election Code, shall be approved by a majority of the qualified electors voting in an election held for that purpose.

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

(Adds R.S. 33:2740.39)