

Regular Session, 2014

SENATE BILL NO. 452

BY SENATOR CHABERT

SPECIAL DISTRICTS. Provides relative to multi-parish fresh water districts. (8/1/14)

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AN ACT

To enact Part XV-B of Chapter 13 of Title 38 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 38:3086.31 through 3086.36, relative to fresh water districts; to provide additional powers, duties, authorities, and functions; to provide conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XV-B of Chapter 13 of Title 38 of the Louisiana Revised Statutes of 1950, comprised of R.S. 30:3086.31 through 3086.36, is hereby enacted to read as follows:

**PART XV-B. FRESH WATER DISTRICTS - MISCELLANEOUS**

**§3086.31. Definitions**

**As used in this Part, the following terms and phrases shall have the following meanings, unless the context requires otherwise:**

**(1) "Board" means the board of commissioners, the governing authority of a district.**

**(2) "District" means a fresh water district created by law which includes more than one parish.**

**(3) "Waterway" means the navigable bayou or river, or portion thereof,**

1 located within the geographical boundaries of the district.

2 §3086.32. Enforcement jurisdiction

3 A district shall have jurisdiction to regulate activity and have its penal  
4 ordinances enforced on all property along the waterway five hundred feet in  
5 each direction perpendicular to the center line of the waterway within the  
6 district.

7 §3086.33. Ability to be sued; not waiver of immunity

8 The power of a district to be sued shall not constitute a waiver of the  
9 governmental immunity to which the district is entitled.

10 §3086.34. Beautification program

11 A district, through its board of commissioners, shall have power to take  
12 the necessary steps to effectuate a program of beautification of the area within  
13 the jurisdiction of the board, particularly but not limited to the banks of the  
14 waterway, including the necessary police power and authority to adopt  
15 ordinances setting forth penalties for violation thereof in connection with such  
16 program. For the purposes of this Section "beautification" shall have the  
17 following meaning: any method, procedure, or program which has the effect of  
18 creating more pleasant surroundings.

19 §3086.35. Powers

20 In order to accomplish the purposes of the district, the board may make  
21 and enforce such rules, regulations, and ordinances, it shall deem necessary and  
22 advisable:

23 (1) To protect and preserve the works, improvements and properties  
24 owned and controlled by the district, prescribe the manner of their use by  
25 persons and entities, and preserve order within and adjacent thereto.

26 (2) To protect and preserve the water of the waterway from any  
27 substance or act which would render the water unfit for the objectives and  
28 purposes of the district.

29 (3)(a) To protect and preserve from pollution the water of the waterway;

1 **and for purposes of this Section, the following shall be considered pollution:**

2 **(i) "Ashes" includes the solid residue resulting from the combustion of**  
3 **all fuels used for heating, cooking, and the production of power in any public**  
4 **or private establishment, institution, or residence.**

5 **(ii) "Garbage" includes all putrescible waste matter except sewage and**  
6 **recognizable industrial byproducts and includes putrescible vegetable matter,**  
7 **animal offal, and animal carcasses.**

8 **(iii) "Refuse" includes garbage, rubbish, ashes, animal and vegetable**  
9 **waste from animal quarters, and all other waste matter, except sewage, from**  
10 **any public or private establishment, institution, or residence.**

11 **(iv) "Rubbish" includes all nonputrescible waste matter, except ashes,**  
12 **from any public or private establishment, institution, or residence.**

13 **(v) "Untreated sewage" includes animal feces and urine as well as any**  
14 **material contaminated by animal body discharges and waste feed stuff which**  
15 **has not been subjected to proper primary treatment.**

16 **(vi) Any other substance in concentrations which tend to degrade the**  
17 **chemical, physical, biological, or radiological integrity of the waters of the**  
18 **waterway.**

19 **(b) Any action by the board pursuant to Item (3)(v) of this Section shall**  
20 **be subject to review by the courts.**

21 **(4) To protect and prohibit any person, company, or governmental entity**  
22 **from abandoning any boat, barge, scow, raft, or other marine vessel upon or in**  
23 **the waterway or voluntarily or carelessly sinking or allowing to be sunk any**  
24 **vessel in the waterway or failing to remove any sunken vessel from the**  
25 **waterway after having been requested to do so in writing.**

26 **(5) To prohibit any person or entity from erecting, locating, constructing,**  
27 **or using any building or structures within the district where same may threaten**  
28 **the objectives and purposes of the district until a permit has been approved by**  
29 **the board.**

1           **(6)(a) To prohibit any person from knowingly or willfully emptying or**  
2           **draining or permitting to be drained from any pump, reservoir, well or oil field**  
3           **into the waterway any oil, salt water, or other noxious, toxic, hazardous, or**  
4           **poisonous gas, liquid, or substance which would render the water of the**  
5           **waterway unfit for the objectives and purposes of the district or for human**  
6           **consumption or would destroy aquatic and fish life in the waterway.**

7           **(b) Each and every day that oil, salt water, or other substances are**  
8           **permitted to empty, drain, or flow into the waterway shall constitute a separate**  
9           **and distinct offense.**

10           **(7) To acquire by purchase, donation, lease, or otherwise and to hold and**  
11           **use any real, personal, or mixed property, whether tangible or intangible, or**  
12           **any interest therein necessary or desirable for carrying out the objectives and**  
13           **purposes of the district, and to sell, lease, transfer, and convey any property or**  
14           **interest therein at any time acquired by it.**

15           **(8) To expropriate in the same manner as levee districts pursuant to R.S.**  
16           **38:351 et seq.**

17           **(9) Notwithstanding any provision of law to the contrary and in**  
18           **particular R.S. 34:851.27, upon declaration of an emergency by the board that**  
19           **the size and speed of boats traveling through the waterway needs to be**  
20           **regulated to protect the integrity of the banks of the waterway due to low water**  
21           **levels or other event causing the banks to be in peril of erosion or instability, to**  
22           **implement and enforce, by penal ordinance, a "no wake zone" as that term is**  
23           **commonly understood in marine terminology and to limit the size of vessels**  
24           **permitted to travel on certain areas of the waterway until such time as the**  
25           **emergency has passed. This power is not intended to supersede or otherwise**  
26           **interfere with the authority of the Department of Wildlife and Fisheries except**  
27           **during emergencies declared by the board.**

28           **(10) To exercise all powers necessary for carrying out the objectives and**  
29           **purposes of the district by enacting ordinances or otherwise and adopting rules**

1 and regulations for the conduct, management, and control of its operations and  
2 functions, the structures and other facilities within its jurisdiction or under its  
3 administration, and for the government thereof, which the board may find to  
4 be necessary or proper in the exercise of the powers now conferred upon it by  
5 the constitution and statutes of the state, and shall, from time to time, enlarge,  
6 modify or change such rules and regulations, including but without limiting the  
7 generality of the foregoing, the following:

8 (a) For the safety and efficiency of its operations.

9 (b) To protect property, life, and the welfare of its employees and the  
10 public.

11 (c) To control, use, and protect its real property and equipment and  
12 other facilities and improvements and appurtenances thereto, within its  
13 jurisdiction or under its administration.

14 (d) To control, regulate, and protect the channel and banks of the  
15 waterway from erosion, decay, or destruction.

16 (e) To control and regulate the pumping of or flowing of water into the  
17 waterway from adjacent or nearby canals, drainage systems, bayous, ditches,  
18 streams, tributaries, or other sources which empty or are pumped into the  
19 waterway.

20 §3086.36. Enforcement of penal ordinances

21 A.(1) All penal ordinances contemplated by this Part which are enacted  
22 by the board shall be enforceable by any local law enforcement authority having  
23 jurisdiction over the area and by the Louisiana State Police and shall be  
24 prosecuted by the district attorney in the parish where the offense occurred.

25 (2) Any ordinance may contain penalties, including a fine, not to exceed  
26 five hundred dollars or imprisonment not to exceed six months, or both fine and  
27 imprisonment, in the discretion of the court.

28 B. The district court with criminal jurisdiction in the parish where the  
29 offense occurred shall have jurisdiction over the trial and punishment of all

1                    **violations of ordinances enacted by the board.**


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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

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## DIGEST

Chabert (SB 452)

Proposed law provides additional powers, duties, authorities, and functions for statutorily created fresh water districts which include more than one parish.

Defines "waterway" as the navigable bayou or river, or portion thereof, located within the geographical boundaries of the district.

Provides that a district shall have jurisdiction to regulate activity and have its penal ordinances enforced on all property along the waterway 500 feet in each direction perpendicular to the center line of the waterway within the district.

Provides that the ability of a district to be sued shall not constitute a waiver of the governmental immunity to which the district is entitled.

Provides that the board of commissioners may effectuate a beautification program of the area within its jurisdiction, particularly but not limited to the banks of the waterway, including the necessary police power and authority to adopt ordinances setting forth penalties for violation thereof in connection with such program. Provides that "beautification" shall mean any method, procedure, or program which has the effect of creating more pleasant surroundings.

Provides that in order to accomplish the purposes of the district, the board may make and enforce such rules, regulations, and ordinances, it shall deem necessary and advisable:

- (1) To protect and preserve the works, improvements and properties owned and controlled by the district, prescribe the manner of their use by persons and entities, and preserve order within and adjacent thereto.
- (2) To protect and preserve the water of the waterway from any substance or act which would render the water unfit for the objectives and purposes of the district.
- (3) (a) To protect and preserve from pollution the water of the waterway; and for purposes of proposed law, the following shall be considered pollution:
  - (i) "Ashes" includes the solid residue resulting from the combustion of all fuels used for heating, cooking, and the production of power in any public or private establishment, institution, or residence.
  - (ii) "Garbage" includes all putrescible waste matter except sewage and recognizable industrial byproducts and includes putrescible vegetable matter, animal offal, and animal carcasses.
  - (iii) "Refuse" includes garbage, rubbish, ashes, animal and vegetable waste from animal quarters, and all other waste matter, except sewage, from any public or private establishment, institution, or residence.
  - (iv) "Rubbish" includes all nonputrescible waste matter, except ashes, from any public or private establishment, institution, or residence.

- (v) "Untreated sewage" includes animal feces and urine as well as any material contaminated by animal body discharges and waste feed stuff which has not been subjected to proper primary treatment.
  - (vi) Any other substance in concentrations which tend to degrade the chemical, physical, biological, or radiological integrity of the waters of the waterway.
- (b) Any action by the board regarding untreated sewage shall be subject to review by the courts.
- (4) To protect and prohibit any person, company, or governmental entity from abandoning any boat, barge, scow, raft, or other marine vessel upon or in the waterway or voluntarily or carelessly sinking or allowing to be sunk any vessel in the waterway or failing to remove any sunken vessel from the waterway after having been requested to do so in writing.
- (5) To prohibit any person or entity from erecting, locating, constructing, or using any building or structures within the district where same may threaten the objectives and purposes of the district until a permit has been approved by the board.
- (6) (a) To prohibit any person from knowingly or willfully emptying or draining or permitting to be drained from any pump, reservoir, well or oil field into the waterway any oil, salt water, or other noxious, toxic, hazardous, or poisonous gas, liquid, or substance which would render the water of the waterway unfit for the objectives and purposes of the district or for human consumption or would destroy aquatic and fish life in the waterway.
- (b) Each and every day that oil, salt water, or other substances are permitted to empty, drain or flow into the waterway shall constitute a separate and distinct offense.
- (7) To acquire by purchase, donation, lease, or otherwise and to hold and use any real, personal, or mixed property, whether tangible or intangible, or any interest therein necessary or desirable for carrying out the objectives and purposes of the district, and to sell, lease, transfer, and convey any property or interest therein at any time acquired by it.
- (8) To expropriate in the same manner as levee districts pursuant to R.S. 38:351 et seq.
- (9) Notwithstanding any provision of law to the contrary and in particular R.S. 34:851.27, upon declaration of an emergency by the board that the size and speed of boats traveling through the waterway needs to be regulated to protect the integrity of the banks of the waterway due to low water levels or other event causing the banks to be in peril of erosion or instability, to implement and enforce, by penal ordinance, a "no wake zone" as that term is commonly understood in marine terminology and to limit the size of vessels permitted to travel on certain areas of the waterway until such time as the emergency has passed. This power is not intended to supersede or otherwise interfere with the authority of the Department of Wildlife and Fisheries except during emergencies declared by the board.
- (10) To exercise all powers necessary for carrying out the objectives and purposes of the district by enacting ordinances or otherwise and adopting rules and regulations for the conduct, management, and control of its operations and functions, the structures and other facilities within its jurisdiction or under its administration, and for the government thereof, which the board may find to be necessary or proper in the exercise of the powers now conferred upon it by the constitution and statutes of the state, and shall, from time to time, enlarge, modify or change such rules and

regulations, including but without limiting the generality of the foregoing, the following:

- (a) For the safety and efficiency of its operations.
- (b) To protect property, life, and the welfare of its employees and the public.
- (c) To control, use, and protect its real property and equipment and other facilities and improvements and appurtenances thereto, within its jurisdiction or under its administration.
- (d) To control, regulate, and protect the channel and banks of the waterway from erosion, decay, or destruction.
- (e) To control and regulate the pumping of or flowing of water into the waterway from adjacent or nearby canals, drainage systems, bayous, ditches, streams, tributaries, or other sources which empty or are pumped into the waterway.

Provides that all penal ordinances contemplated by proposed law enacted by the board shall be enforceable by any local law enforcement authority having jurisdiction over the area and by the La. State Police and shall be prosecuted by the district attorney in the parish where the offense occurred. Provides that any ordinance may contain penalties, including a fine, not to exceed \$500 or imprisonment not to exceed six months, or both fine and imprisonment, in the discretion of the court. Provides that the district court with criminal jurisdiction in the parish where the offense occurred shall have jurisdiction over the trial and punishment of all violations of board ordinances.

Effective August 1, 2014.

(Adds R.S. 38:3086.31-3086.36)