

2016 Regular Session

SENATE BILL NO. 412

BY SENATOR BROWN

LOCAL FINANCE. Authorizes creation of special districts within certain cities and provides for the governance and the powers and duties of the district, including tax increment finance authority. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 33:9038.31(2) and (3) and to enact R.S. 33:9038.70, relative to  
3 special districts; to authorize the creation of special districts; to provide for the  
4 governance and the powers and duties of the district, including tax, bond, and tax  
5 increment finance authority; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 33:9038.31(2) and (3) are hereby amended and reenacted and R.S.  
8 33:9038.70 is hereby enacted to read as follows:

9 §9038.31. Definitions

10 As used in this Part, the following terms shall have the following meanings,  
11 unless the context requires otherwise:

12 \* \* \*

13 (2) "Issuer" means the local governmental subdivision, economic  
14 development district, industrial development board of the municipality or parish  
15 authorized and created pursuant to Chapter 7 of Title 51 of the Louisiana Revised  
16 Statutes of 1950, a public trust with the municipality or parish as the beneficiary  
17 thereof as provided in Chapter 2-A of Code Title II of Code Book III of Title 9 of the

1 Louisiana Revised Statutes of 1950, as authorized in this Part, ~~or~~ the Walnut Street  
 2 Special District, ~~or~~ any Tax Increment Development Corporation activated in a  
 3 municipality with a population of not less than three thousand three hundred and not  
 4 more than three thousand three hundred ninety-five persons according to the most  
 5 recent federal decennial census for the purposes provided for in R.S. 33:9038.68, or  
 6 any district created pursuant to R.S. 33:9038.70.

7 (3) "Local governmental subdivision" means any municipality or parish or  
 8 any municipality, parish, local industrial board, a local public trust authorized  
 9 pursuant to R.S. 33:9038.33(N) or 9038.34(N) having jurisdiction over the  
 10 geographical area bounded by the Mississippi River, the Orleans/Jefferson parish  
 11 line and the Orleans/Plaquemines parish line, ~~or~~ the Walnut Street Special District,  
 12 ~~or~~ any Tax Increment Development Corporation activated in a municipality with a  
 13 population of not less than three thousand three hundred and not more than three  
 14 thousand three hundred ninety-five persons according to the most recent federal  
 15 decennial census for the purposes provided for in R.S. 33:9038.68, or any district  
 16 created pursuant to R.S. 33:9038.70; but the provisions of this Part shall not apply  
 17 to any of the financing of construction, renovations, or improvements of any  
 18 convention center, hotel complex, and ancillary facilities within the city of  
 19 Shreveport. However, the provisions of this Part shall apply to the parish of Rapides,  
 20 only as provided in R.S. 33:9038.41.

21 \* \* \*

22 §9038.70. Special district in certain cities

23 A. Definitions. As used in this Section, "city" means any municipality  
 24 governed by a home rule charter and with a population between seven thousand  
 25 and eight thousand persons according to the latest federal decennial census.

26 B. Creation. The governing authority of the city may, by ordinance,  
 27 create a special taxing district and political subdivision of the state, hereinafter  
 28 referred to as the "district".

29 C. Boundaries. The ordinance creating the district shall establish its

1 boundaries which shall be within the corporate limits of the city.

2 D. Purpose. The district is created to provide for cooperative economic  
3 development between the district, the city, and the owner or owners of  
4 businesses and other property within the district in order to provide for costs  
5 related to infrastructure within the district as determined by the board of  
6 commissioners of the district.

7 E. Governance. (1) In order to provide for the orderly development of  
8 the district and effectuation of the purposes of the district, the district shall be  
9 administered and governed by a board of commissioners as follows:

10 (a) The mayor of the city, or his designee.

11 (b) The presiding officer of the city council, or his designee.

12 (c) The chief executive officer of the local convention and visitor's bureau  
13 or tourism commission, or his designee.

14 (d) Any person who is an owner of property within the district, or an  
15 authorized representative of an entity which is an owner of property within the  
16 district, if such person or authorized representative applies to the board for  
17 membership on the board, or that person's or representative's designee.

18 (2) A majority of the members of the board shall constitute a quorum for  
19 the transaction of business. The board shall keep minutes of all meetings and  
20 shall make them available for inspection through the board's secretary. The  
21 minute books and archives of the district shall be maintained by the board's  
22 secretary. The monies, funds, and accounts of the district shall be in the official  
23 custody of the board.

24 (3) The board shall adopt bylaws and prescribe rules to govern its  
25 meetings. The members of the board shall serve without salary or per diem and  
26 shall be entitled to reimbursement for reasonable, actual, and necessary  
27 expenses incurred in the performance of their duties.

28 (4) The domicile of the board shall be established by the board at a  
29 location within the city.

1           (5) The board shall elect from its own members a president and  
2           secretary, whose duties shall be common to the offices or as may be provided by  
3           bylaws adopted by the district. The board shall hold regular meetings and may  
4           hold special meetings as provided in the bylaws. All meetings shall be public  
5           meetings subject to the provisions of the Open Meetings Law.

6           F. Rights and powers. In addition to the taxing, tax increment finance,  
7           and bonding authority provided for in Subsection G of this Section, the district,  
8           acting by and through its board of commissioners, shall have and exercise all  
9           powers of a political subdivision and a special district necessary or convenient  
10          for the carrying out of its objects and purposes including but not limited to the  
11          following:

12           (1) To sue and to be sued.

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

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

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

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

23           (6) To acquire by gift, grant, purchase, or lease, but not by  
24          expropriation, such property as may be necessary or desirable for carrying out  
25          the objectives and purposes of the district and to mortgage and sell such  
26          property.

27           (7) In its own name and on its own behalf, to incur debt and to issue  
28          bonds, notes, certificates, and other evidences of indebtedness. For this purpose  
29          the district shall be deemed and considered to be an issuer for purposes of R.S.

1 33:9037 and shall, to the extent not in conflict with this Section, be subject to the  
2 provisions of R.S. 33:9037.

3 (8) To establish such funds or accounts as are necessary for the conduct  
4 of the affairs of the district.

5 (9) To do all things reasonably necessary to accomplish the purposes of  
6 this Section.

7 (10) To designate by ordinance any territory within the district as a  
8 subdistrict in which shall be exercised, to the exclusion of the remainder of the  
9 district, any authority provided to the district by Subsection G of this Section  
10 or any other provision of this Section or other law.

11 G. Taxing, tax incremental financing, and bonding authority. (1) To  
12 provide for the costs of a project to fund infrastructure within the district, the  
13 district shall have such tax increment finance authority, taxing authority, and  
14 other authority that is provided to local governmental subdivisions in Part II of  
15 Chapter 27 of Title 33 of the Louisiana Revised Statues of 1950, including but  
16 not limited to the following: ad valorem tax increment financing and bonding  
17 in R.S. 33:9038.33; sales tax increment financing and bonding in R.S.  
18 33:9038.34; cooperative endeavor authority in R.S. 33:9038.35; bond authority  
19 in R.S. 33:9038.38; and ad valorem, sales tax, and hotel occupancy tax authority  
20 in R.S. 33:9038.39. The project to fund infrastructure within the district is  
21 hereby deemed to be an "economic development project" within the meaning  
22 provided for in that Part. An agreement entered into by the district and any  
23 affected tax recipient entity authorizing the use and dedication of the affected  
24 tax recipient entity's incremental increase in taxes may include additional  
25 public or private entities as parties to such agreement and may include such  
26 terms, conditions, and other provisions to which all parties to such agreement  
27 consent.

28 (2) Notwithstanding any provision of Part II of Chapter 27 of Title 33 of  
29 the Louisiana Revised Statues of 1950 or any other law to the contrary, any

1 powers, authorities, or duties granted under such laws may be restricted to a  
2 subdistrict the territory of which shall be established by ordinance of the board  
3 of commissioners of the district.

4 H. Project financing. (1) The district may pledge any taxes collected  
5 under the authority of this Section to any economic development project in  
6 furtherance of the purposes of the district.

7 (2) Notwithstanding R.S. 33:9038.34(A)(2), (6), Subsection J of this  
8 Section, or any other provision of law to the contrary, nothing in this Section  
9 shall authorize the dedication of a state tax increment. Sales tax increments  
10 shall not include any sales and use taxes levied by the state, but may be  
11 comprised only of sales and use tax levied by the political subdivisions within  
12 the district.

13 I. Term. The district shall dissolve and cease to exist one year after the  
14 date all bonds, notes, and other evidences of indebtedness of the district,  
15 including refunding bonds, are paid in full as to both principal and interest;  
16 however, under no event shall the district have an existence of less than three  
17 years.

18 J. Liberal construction. This Section, being necessary for the welfare of  
19 the city and its residents, shall be liberally construed to effect the purposes  
20 thereof.

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

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The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

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## DIGEST

SB 412 Reengrossed

2016 Regular Session

Brown

Proposed law includes any district created pursuant to proposed law as "issuer" and "local governmental subdivision" under the laws applicable to tax increment financing for local governmental subdivisions.

In proposed law "city" means any municipality governed by a home rule charter and with a population between 7,000 and 8,000 persons based upon the latest federal decennial census.

Proposed law authorizes the city governing authority to, by ordinance, create a special taxing district and political subdivision of the state, hereinafter referred to as the "district".

Provides that the ordinance creating the district shall establish its boundaries within the city.

Provides that the district is created to provide for cooperative economic development between the district, the city, and the owner or owners of businesses and other property within the district in order to provide for costs related to infrastructure within the district as determined by the board of commissioners of the district.

Provides that the district shall be administered and governed by a board of commissioners as follows:

- (1) The mayor of the city, or his designee.
- (2) The presiding officer of the city council, or his designee.
- (3) The chief executive officer of the local convention and visitor's bureau or tourism commission, or his designee.
- (4) Any person who is an owner of property within the district, or an authorized representative of an entity which is an owner of property within the district, if such person or authorized representative applies to the board for membership on the board, or that person's or representative's designee.

Provides that a majority of the members of the board shall constitute a quorum for the transaction of business. Requires that the board keep minutes of all meetings and make them available for inspection through the board's secretary. Requires that the minute books and archives of the district be maintained by the board's secretary and that the monies, funds, and accounts of the district be in the official custody of the board.

Requires the board adopt bylaws and prescribe rules to govern its meetings. Provides that the board members serve without salary or per diem but are entitled to reimbursement for reasonable, actual, and necessary expenses incurred in the performance of their duties.

Requires that the board's domicile be established by the board at a location within the city.

Requires that the board elect from its own members a president and secretary, whose duties shall be common to the offices or as may be provided by bylaws adopted by the district. Requires that the board hold regular meetings and may hold special meetings as provided in the bylaws. Provides that all meetings shall be subject to the Open Meetings Law.

Provides that the district, acting by and through its board, shall have and exercise all powers of a political subdivision and a special district necessary or convenient for the carrying out of its objects and purposes including but not limited to the following:

- (1) To sue and to be sued.
- (2) To adopt bylaws and rules and regulations.
- (3) To receive by gift, grant, or donation any sum of money, property, aid or assistance from the United States, the state, or any political subdivision thereof, or any person, firm, or corporation.
- (4) For the public purposes of the district, 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.
- (5) To appoint officers, agents, and employees, prescribe their duties, and fix their compensation.
- (6) To acquire by gift, grant, purchase, or lease but not by expropriation, such property as may be necessary or desirable for carrying out the objectives and purposes of the district and to mortgage and sell such property.
- (7) In its own name and on its own behalf, to incur debt and to issue bonds, notes, certificates, and other evidences of indebtedness. For this purpose the district shall be deemed and considered to be an issuer for purposes of R.S. 33:9037 and shall, to the extent not in conflict with proposed law, be subject to the provisions of R.S. 33:9037.
- (8) To establish such funds or accounts as are necessary for the conduct of the affairs of the district.
- (9) To do all things reasonably necessary to accomplish the purposes of proposed law.
- (10) To designate by ordinance any territory within the district as a subdistrict in which shall be exercised, to the exclusion of the remainder of the district, any authority provided to the district.

Provides that to provide for the costs of a project to fund infrastructure within the district, the district shall have such tax increment finance authority, taxing authority, and other authority that is provided to local governmental subdivisions in Part II of Chapter 27 of Title 33 of the LRS, including but not limited to the following: ad valorem tax increment financing and bonding in R.S. 33:9038.33; sales tax increment financing and bonding in R.S. 33:9038.34; cooperative endeavor authority in R.S. 33:9038.35; bond authority in R.S. 33:9038.38; and ad valorem, sales tax, and hotel occupancy tax authority in R.S. 33:9038.39. Deems the project to fund infrastructure within the district to be an "economic development project" within the meaning provided for in present law. Provides that an agreement entered into by the district and any affected tax recipient entity authorizing the use and dedication of the affected tax recipient entity's incremental increase in taxes may include additional public or private entities as parties to such agreement and may include such terms, conditions, and other provisions to which all parties to such agreement consent.

Provides that notwithstanding Part II of Chapter 27 of Title 33 of the LRS or any other law to the contrary, any powers, authorities, or duties granted under such laws may be restricted to a subdistrict the territory of which shall be established by ordinance of the board of commissioners of the district.



Provides that the district may pledge any taxes collected under the authority of proposed law to any economic development project in furtherance of the purposes of the district.

Proposed law, notwithstanding any law to the contrary, prohibits the dedication of a state tax increment. Further provides that sales tax increments may not include any sales and use taxes levied by the state, but may be compromised only of sales and use tax levied by the political subdivisions within the district.

Provides that the district shall dissolve and cease to exist one year after the date all bonds, notes, and other evidences of indebtedness of the district, including refunding bonds, are paid in full as to both principal and interest; however, under no event shall the district have an existence of less than three years.

Provides that proposed law shall be liberally construed.

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

(Amends R.S. 33:9038.31(2) and (3); adds R.S. 33:9038.70)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Specifies that the district is not authorized to expropriate property.

Senate Floor Amendments to engrossed bill

1. Adds provision prohibiting the dedication of a state tax increment.