

2018 Regular Session

SENATE BILL NO. 425

BY SENATOR LAFLEUR

SPECIAL DISTRICTS. Provides for the creation of special service districts by parishes and municipalities, and for the raising of revenues by such special service districts. (gov sig)

AN ACT

To enact Chapter 2-A of Title 33 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 33:1420.31 through 1420.44, relative to local special service districts; to provide a uniform and streamlined procedure for the creation of special service districts by parishes and municipalities, to set forth their powers to raise revenues, and to set forth their powers to incur debt and issue bonds; to provide relative to the creation of the districts as a political subdivision of the state; to provide for the requirements of the ordinance creating the district; to provide relative to multiparish districts; to provide relative to districts whose boundaries include any territory within a municipality; to provide relative to the officers of the districts; to provide authorization for the raising of revenues, including special taxes, parcel fees, service charges, user fees, and special assessments; to provide exclusions from the law; to provide relative to existing special service districts; to provide relative to the authority of the parish or municipality to abolish the district; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 2-A of Title 33 of the Louisiana Revised Statutes of 1950,

comprised of R.S. 33:1420.31 through 1420.44, is hereby enacted to read as follows:

CHAPTER 2-A. LOCAL SPECIAL SERVICE DISTRICTS

§1420.31. Designation

This Chapter is enacted in accordance with La. Const. Art. VI, Sec. 19, and may be cited as the "Local Special Service District Law".

§1420.32. Purposes, rules of construction

A. The purposes of this Chapter are to modernize and make uniform the laws relating to:

(1) The creation of local special service districts by municipalities and parishes.

(2) The powers of local special service districts to levy and collect taxes and other revenues.

(3) The powers of local special service districts created pursuant to this Chapter to incur debt and to issue bonds and other evidences of indebtedness.

B. This Chapter provides a complete and additional method for the creation of local special service districts, and authority for the raising of revenues by such districts, but this Chapter shall not be deemed to repeal or otherwise limit the applicability of other existing laws relating to local special service districts.

C. This Chapter shall be liberally construed so as to give effect to its intended purposes.

§1420.33. Definitions

As used in this Chapter, the following words, terms and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) "Bonds" means any bonds, notes, certificates or other written contracts or instruments evidencing the obligation to repay borrowed money, regardless of the designation thereof.

(2) "Local governmental subdivision" means a parish or municipality.

1 (3) "Governing authority" means the body which exercises the legislative
2 functions of a local governmental subdivision or a district.

3 (4) "District" means a local special services district created by a local
4 governmental subdivision pursuant to this Chapter for the purpose of providing
5 governmental services specified by the local governmental subdivision,
6 including but not limited to any one or more of the following: airports,
7 ambulance, animal control, cemeteries, crime prevention and improvement, fire
8 ant abatement, fire protection, garbage, hospital, levee, library, mosquito
9 abatement, neighborhood improvement or security, public safety, recreation,
10 road lighting, roads and bridges, sanitation, solid waste disposal, utilities such
11 as water, sewerage, sewage treatment, drainage, gas, electricity, cable television,
12 and broadband internet, or veterans' memorial, and any other category of
13 service or services that could legally be furnished by the local governmental
14 subdivision that creates the district.

15 (5) "State" means the state of Louisiana.

16 (6) "Total assessed value" shall mean the assessed valuation of all of the
17 property in the district, including both homestead exempt property, which shall
18 be included on the assessment roll for the purposes of total assessed value, and
19 nonexempt property, as shown on the most recent assessment of the parish in
20 which the district is located.

21 §1420.34. Exclusions

22 Nothing in this Chapter shall be construed to confer upon any district
23 created under this Chapter the authority to carry out any of the functions or
24 exercise any of the powers of:

25 A. A law enforcement district created under Chapter 38 of Title 13 of the
26 Louisiana Revised Statutes of 1950.

27 B. A communications district created under Part 1 of Chapter 31 of Title
28 33 of the Louisiana Revised Statutes of 1950.

29 C. An assessment district created under Part I-A of Chapter 3 of Subtitle

III of Title 47 of the Louisiana Revised Statutes of 1950.

D. A judicial enforcement district created under Chapter 1-B of Title 16 of the Louisiana Revised Statutes of 1950.

E. A port commission, deepwater port commission, or deepwater port, harbor and terminal district.

F. A levee district or regional flood protection authority.

G. A school board or school district.

H. A tax increment financing district.

§1420.35. Creation of districts; status as political subdivisions; issuance of bonds

A. The governing authority of any local governmental subdivision, including the city of New Orleans, may by ordinance create districts comprising all or any part of the territory lying wholly within such local governmental subdivision. Such districts shall be political subdivisions of the state, with power to sue and be sued in their corporate names. Such districts shall be subject to and may avail themselves of any law relating to political subdivisions generally, including general laws relating to the incurring of debt and issuance of bonds or other evidences of indebtedness by political subdivisions generally. Prior to the creation of any such district, the governing authority of the local governmental subdivision shall adopt a resolution of intent to create the district and shall hold a public hearing on the creation of the proposed district. Prior to the public hearing, the governing authority of the local governmental subdivision shall cause to be published in two consecutive weekly issues of its official journal a notice describing the purposes of the proposed district and including the boundaries of the proposed district or containing a map showing the boundaries of the district, and stating the time and place at which it will hold the public hearing on the creation of the proposed district.

B. The ordinance creating a district shall specify the following:

(1) The name of the district, which shall convey the general purpose or

1 purposes of the district and shall contain the name of the municipality, when
2 created by a municipal governing authority, or the name of the parish, when
3 created by a parish or city-parish governing authority.

4 (2) The boundaries of the district.

5 (3) The domicile of the district.

6 (4) The number of persons, no fewer than three and no more than nine,
7 who shall comprise the governing authority of the district, which shall be known
8 as the "board of commissioners" of the district.

9 (5) The names, addresses, and terms of office of the initial members of
10 said board of commissioners, which terms of office may be overlapping or not,
11 provided that each person appointed to be a member of the board of
12 commissioners shall be domiciled in the district at the time of his or her
13 appointment and at all times during his or her term of office, and may not be
14 an officer or employee of the parish or municipality creating the district.

15 (6) Subject to the exclusions set forth in R.S. 33:1420.34, the purposes for
16 which the district has been created, which may include any one or more of the
17 purposes contained in the definition of "district" in R.S. 33:1420.33(4) or for
18 which special districts are now or hereafter authorized to be created under
19 Louisiana law, or any other governmental purposes that may be specified by the
20 governing authority of the local governmental subdivision, provided that the
21 local governmental subdivision itself is authorized to carry out the specified
22 activities in the area of the district.

23 C. Except in the case of a multiparish district created pursuant to
24 Subsection E of this Section, and notwithstanding Paragraphs (B)(4) and (5) of
25 this Section, the governing authority of the local governmental subdivision may
26 designate itself as the governing authority of any district created under the
27 provisions of this Chapter instead of creating a separate board of
28 commissioners as the governing authority of such district.

29 D. If the governing authority of a parish proposes to establish a district

1 whose boundaries include any territory located within the corporate limits of
2 a municipality, the governing authority of the parish shall not adopt the
3 ordinance to create any such district without the prior written consent of the
4 municipality, as evidenced by a resolution of the governing authority of the
5 municipality.

6 E. A district may be created whose boundaries include any territory
7 located in two or more adjacent parishes provided that the governing authority
8 of each such parish follows the procedures set forth in this Section and adopts
9 a substantially identical ordinance providing for the creation of such district.
10 The ordinances providing for the creation of the district shall also set forth the
11 number of members of the board of commissioners to be appointed by each
12 parish governing authority, and the initial appointments by each parish
13 governing authority.

14 F. Other than as provided in this Section, no additional notice,
15 publication, or public hearing shall be required in connection with the creation
16 of districts pursuant to this Chapter.

17 G. The governing authority of any local governmental subdivision shall
18 have general power over any district created by it pursuant to this Chapter,
19 including, without limitation, the power to:

- 20 (1) Abolish the district.
21 (2) Remove the members of the board of commissioners for cause.
22 (3) Require prior approval of any charge or tax levied or indebtedness
23 incurred by the district.

24 §1420.36. Officers of the district

25 A. The board of commissioners of the district shall elect from its
26 members a president and a vice president, and shall also elect a secretary and
27 a treasurer, provided that the offices of secretary and treasurer may be
28 combined into a single office. The secretary, treasurer, or secretary-treasurer,
29 as the case may be, need not be members of the board of commissioners. The

1 president and vice president shall serve for terms of not more than two years,
2 and the secretary, treasurer, or secretary-treasurer, as the case may be, may
3 serve for fixed terms or at the pleasure of the board of commissioners.

4 B.(1) In the event that the governing authority of the local governmental
5 subdivision designates itself to be the governing authority of the district, then:

6 (a) In the case of a police jury, the president or chair of the police jury
7 shall be the ex officio president of the district and the vice president or vice
8 chair of the police jury shall be the ex officio vice president of the district.

9 (b) In the case of a Lawrason Act municipality, the mayor shall be the ex
10 officio president of the district and the mayor pro tem shall be the ex officio vice
11 president of the district.

12 (c) In the case of a local governmental subdivision that operates under
13 a home rule charter or legislative charter that provides for an elected chief
14 executive officer such as a mayor, parish president or mayor-president, then
15 such elected chief executive officer shall be the ex officio president of the district
16 and the presiding officer of the governing authority of the local governmental
17 subdivision shall be the ex officio vice president of the district.

18 (2) In all cases, the clerk, secretary, or administrator of the governing
19 authority of the local governmental subdivision and its chief financial officer
20 shall be the ex officio secretary and treasurer, or secretary-treasurer,
21 respectively, of the district.

22 §1420.37. Special taxes

23 Any district may levy an ad valorem tax or taxes for a term of no more
24 than twenty years, for the purpose of acquiring, constructing, improving,
25 equipping, furnishing, maintaining, or operating any work of public
26 improvement, including both movable and immovable property necessary in
27 connection with the purposes for which the district has been created, when
28 authorized by a majority of the electors in the district who vote thereon in an
29 election held for that purpose. Any such taxes levied by a district created by a

1 municipality other than the city of New Orleans, and whose boundaries are
2 coterminous with or wholly within the boundaries of such municipality, shall be
3 "municipal taxes" within the meaning of La. Const. Art. VII, Sec. 20(A)(9).

4 §1420.38. Parcel fees

5 A. Any district may levy and collect a parcel fee within the boundaries
6 of the district. The parcel fee shall be imposed by resolution or ordinance of the
7 governing authority of the district, only after the question of the imposition of
8 the parcel fee and the purpose, rate, and duration, not to exceed twenty years,
9 of the parcel fee has been approved by a majority of the electors of the district
10 voting at an election held therein. The proceeds of such parcel fee shall be
11 expended for the purposes set forth in the proposition approved by the electors
12 including the payment of any bonds of the district incurred for such purpose.
13 Any parcel fee imposed pursuant to this Section shall be levied and collected
14 and be due and owing annually. The fee may be carried on the tax rolls and
15 collected at the same time as parish or municipal ad valorem taxes.

16 B.(1) If any parcel fee is not paid when due, the district shall proceed
17 against the parcel for the collection of the amount of the fee unpaid and
18 delinquent, any collection costs incurred by the district, plus interest at a rate
19 not exceeding twelve percent on the unpaid amount of the parcel fee, and, in the
20 event legal proceedings are necessary to effect collection, court costs and
21 reasonable attorney fees. However, attorney fees shall be payable by the parcel
22 owner only if demand by the district has been made on the parcel owner by
23 registered or certified mail, and such parcel owner has failed to pay the amount
24 due within ten days after such demand.

25 (2) A judgment obtained for nonpayment of a parcel fee, upon being
26 recorded in the mortgage records of the parish, shall prime all other liens except
27 those for taxes and prior recorded local or special assessments. If there are one
28 or more property mortgages on such parcel and the mortgage holder or holders
29 have notified the tax collector in the appropriate parish of such recorded

1 mortgage or mortgages in accordance with the requirements of R.S. 47:2180.1,
2 the district, prior to proceeding against such parcel for failure to pay a parcel
3 fee, shall give notice to each mortgagee of the amount of the parcel fee due and
4 owing on such parcel and that such parcel fee must be paid within twenty days
5 after the mailing of the notice or proceedings will be commenced against the
6 parcel. The notice shall be sent to each such mortgage holder by certified mail,
7 return receipt requested, or be made by personal or domiciliary service on such
8 mortgage holder. In the event such notice is given, the district shall not
9 commence such proceedings until at least twenty days after the mailing of such
10 notice.

11 (3) Alternatively, the lien authorized by this Section may be enforced by
12 assessing the amount of the lien against the parcel as a tax against the property.
13 The lien may be collected in the manner fixed for the collection of taxes and
14 shall be subject to the same civil penalties for delinquencies. After the district
15 has incurred such costs and expenses as together with any amount of the parcel
16 fee which remains unpaid and delinquent constitute the lien on the property,
17 including any costs of court, attorney fees, and interest, the governing authority
18 may send an attested bill of such unpaid amount, costs, and expenses to the tax
19 collector for the parish who shall add the amount of such bill to the next tax bill
20 of the property owner. The lien shall prime all other liens or privileges against
21 the property, except other tax liens, filed after the statement specified in this
22 Section is filed with the recorder of mortgages, regardless of the date on which
23 the lien is perfected.

24 §1420.39. Service charges

25 A. The governing authority of any district created under this Chapter
26 may establish a service charge or rates of service charges to be assessed to
27 persons owning each residential or commercial structure, whether occupied or
28 unoccupied, located wholly or partly within the boundaries of the district, for
29 a term of no more than twenty years, for the purpose of acquiring, constructing,

1 improving, equipping, furnishing, maintaining, or operating any work of public
2 improvement, including both movable and immovable property necessary in
3 connection with the purposes for which the district has been created, subject to
4 the provisions of Subsection B of this Section. For purposes of this Section, each
5 residential or commercial unit in a structure and each housing unit within a
6 multiple dwelling structure shall be considered a separate structure, and a
7 mobile home, as defined in R.S. 9:1149.2, shall be considered a structure.

8 B. Service charges or rates of service charges so established shall be
9 assessed by ordinance of the governing authority of the district; however, the
10 ordinance assessing the service charges shall be adopted by the governing
11 authority only after the question of the assessment and the amount of the
12 service charges or rates of service charges to be established have been submitted
13 to and approved by a majority of electors of the district voting at an election
14 held for that purpose in accordance with the election laws of the state.

15 C.(1) The governing authority of the district assessing a service charge
16 or rates of service charges as provided in this Section may also use any
17 reasonable means to collect and enforce the collection of such service charges,
18 including any means authorized by law for the collection of taxes. Such means
19 shall include:

20 (a) The assessor carrying the service charges on the tax rolls.

21 (b) The sheriff or other tax collector for the applicable parish or
22 municipality collecting such service charges at the same time as ad valorem
23 taxes are collected and with the same authority with which such taxes are
24 collected.

25 (2) If any service charge becomes delinquent and unpaid, the sheriff and
26 the tax collector shall enforce the collection of the service charge in the same
27 manner as ad valorem taxes are collected. The governing authority may
28 compensate the sheriff and the tax assessor for such collection upon mutual
29 agreement of the governing authority and the sheriff and tax assessor.

1 (3)(a) The governing authority of the district may also place liens for
2 service charges upon the structure subject to the service charge, upon the
3 building, if any, in which the structure is located if it is owned by the owner of
4 the structure, and upon the lot of ground not exceeding one acre on which the
5 structure is situated if such lot of ground belongs to the person who owns such
6 structure; however, if such structure or building is owned by a lessee of the lot
7 of ground, the lien shall exist only against the leasehold improvements and shall
8 not affect the owner of the lot of ground. Such lien shall be placed upon
9 property only if the owner of a structure refuses to pay the service charges when
10 requested to do so by the governing authority within thirty days after receipt
11 by the owner of such a request by registered or certified letter.

12 (b) The governing authority may file a statement reflecting the amount
13 of the unpaid charges in the mortgage office of the parish, which, when so filed
14 and recorded, shall operate as a lien and privilege in favor of the district against
15 property as provided by this Subsection.

16 (c) Such service charge obligations shall prime all other liens, mortgages,
17 and privileges against the property, except those for taxes and prior recorded
18 local and special assessments.

19 (d) In addition, the governing authority of the district may recover the
20 unpaid charges, together with all costs of court and attorney fees, by ordinary
21 process.

22 (e) The governing authority may also provide, by resolution for interest
23 on the unpaid charges, which shall be paid prior to cancellation of the lien.

24 §1420.40. User fees

25 The governing authority of a district may, by resolution or ordinance,
26 impose fees and charges for the products, commodities, and services furnished
27 by any system or work of public improvement, including those furnished to the
28 district itself and its various agencies and departments, in such amounts and at
29 rates as shall be sufficient at all times to pay the expenses of operating and

1 maintaining the system or work of public improvement, to pay any bonds or
2 other debt obligation payable from such fees and charges, as may be necessary
3 to assure adequate and efficient service to the customers or users of the system
4 or work of public improvement. No board or commission other than the
5 governing body of the district shall have authority to fix or supervise making
6 of such fees and charges.

7 §1420.41. Special assessments

8 As provided by La. Const. Art. VI, Sec. 36, the governing authority of a
9 district, for the purpose of acquiring, constructing, or improving any work of
10 public improvement, may levy and collect local or special assessments on the
11 real property abutting the improvements, sufficient in amount to defray the
12 total cost of the works, in the same form and manner and subject to the same
13 limitations and restrictions granted to municipalities under Subpart A of Part
14 I of Chapter 7 of Title 33 of the Louisiana Revised Statutes of 1950.

15 §1420.42. Sales and use taxes

16 Districts created under this Chapter shall not have any authority
17 whatsoever to levy a sales and use tax or a hotel occupancy tax, unless specially
18 authorized to do so by the state legislature.

19 §1420.43. Existing local special service districts

20 Subject to the preservation of any existing contract rights, the governing
21 authority of any parish or municipality may declare by resolution that any
22 district previously created by such parish or municipality shall be deemed to
23 have been created pursuant to this Chapter and that such district may avail
24 itself of the provisions of this Chapter with respect to the organization of its
25 governing authority and its authority to raise revenues. Districts created by the
26 legislature rather than by a parish or municipality shall continue to operate
27 pursuant to the applicable enabling legislation, unless otherwise provided by the
28 legislature.

29 §1420.44. Power to abolish districts; fiscal, budgetary, and other controls

1 A. In any case where the governing authority of any parish or
2 municipality shall have created or established, or shall thereafter create or
3 establish, any district pursuant to this Chapter, such governing authority is
4 hereby authorized to abolish same, and where the creation or establishment
5 required the concurrence of two or more governing authorities, the concurrence
6 of all of them shall be necessary to exercise the authority afforded by this
7 Section; provided, that where any indebtedness of any such district is
8 outstanding, the authority herein provided shall not be exercised until provision
9 is made for the assumption of such indebtedness in the manner provided by law.

10 B. In any case where the governing authority of any parish or
11 municipality shall have created or established, or shall hereafter create or
12 establish, any district pursuant to this Chapter, such governing authority is
13 hereby authorized to provide appropriate budgetary and fiscal controls over
14 said district. In addition, no such district shall exercise any power or authority
15 to submit to the people any proposal to levy any tax, parcel fee, or service
16 charge, or to issue any bonds unless the proposal therefor first has been
17 submitted to and been approved by the governing authority of the parish or
18 municipality. The parish or municipality shall exercise such other budgetary
19 and fiscal controls as are necessary and proper to ensure the maximum feasible
20 coordination of government on the local level.

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.

The original instrument was prepared by Martha Hess. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

DIGEST

SB 425 Engrossed

2018 Regular Session

LaFleur

Present law provides for the creation of special service districts, sets forth the powers of the districts to levy and collect taxes and other revenue, and the power to incur debt and issue bonds.

Proposed law retains present law, and provides a uniform and streamlined procedure for parishes and municipalities to create special service districts. Proposed law authorizes the raising of revenue by the districts and sets forth the procedures thereto. Proposed law further authorizes the districts to incur debt and issue bonds and other evidences of indebtedness.

Proposed law provides a complete and additional method for the creation of local special service districts, but proposed law does not repeal or otherwise limit the applicability of present law.

Proposed law states that it shall not be construed to confer upon any district created pursuant to proposed law the authority to carry out the functions or exercise the powers of:

- (1) A law enforcement district created under present law.
- (2) A communications district created under present law.
- (3) An assessment district created under present law.
- (4) A judicial enforcement district created under present law.
- (5) A port commission, deepwater port commission, or deepwater port, harbor and terminal district.
- (6) A levee district or regional flood protection authority.
- (7) A school board or school district.
- (8) A tax increment financing district.

Proposed law provides that the districts shall be political subdivisions of the state, with the power to sue and be sued in their corporate names. Such districts may avail themselves of any law relating to political subdivisions generally, including general laws relating to the incurring of debt and issuance of bonds or other evidences of indebtedness by political subdivisions generally.

Proposed law sets forth the procedure for the creation of such a district, specifies what information shall be included in the ordinance creating the district; specifies what information shall be included in the name of the district; and provides for the board of commissioners and the officers thereof.

Proposed law authorizes the district to levy and collect special taxes and parcel fees with the approval of the electorate in the district. Proposed law provides for the imposition of service charges, user fees, and special assessments.

Proposed law prohibits the levy of a sales and use tax or a hotel occupancy tax by the district, unless specially authorized by the legislature.

Proposed law provides that subject to the preservation of any existing contract rights, the governing authority of any parish or municipality may declare by resolution that any district previously created by such parish or municipality shall be deemed to have been created by proposed law.

Proposed law authorizes the governing authorities of the parishes and municipalities that created the districts to abolish such districts, provided that if any indebtedness of such a district is outstanding, the authorized provided in proposed law shall not be exercised until provision is made for the assumption of such indebtedness in the manner provided by law.

Proposed law provides that in any case where the governing authority of any parish or municipality creates any district pursuant to proposed law, the governing authority is authorized to provide appropriate budgetary and fiscal controls over the district. In addition, no district shall exercise the power to submit to the people any proposal to levy any tax, parcel fee or service charge, or to issue any bonds unless the proposal is first submitted to and approved by the governing authority of the parish or municipality.

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

(Adds R.S. 33:1420.31-1420.44)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Makes technical changes.
2. Adds an exclusion for tax increment financing districts.