

SENATE BILL NO. 220

BY SENATOR CATHEY

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

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AN ACT

To amend and reenact the introductory paragraph of R.S. 33:404(A), 4122, 4341(A) and (C), and 4342, R.S. 38:113, 141, 142 and 214 and to enact R.S. 33:381(F) and Chapter 50 of Title 33 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 33:9720, and to repeal R.S. 33:130.621.1, relative to the revision of statutes relating to local agencies; to provide relative to the use of revenue generated from certain sources in certain municipalities; to provide relative to the sale or lease of revenue-producing property; to provide relative to the election to determine whether to dispose of utility property; to provide relative to exceptions; to provide relative to the creation of districts and commissions at a local level; to provide relative to the control of drainage channels and outfall canals in Levee and Drainage districts; to provide relative to drainage of levee and parallel or contiguous roads; to provide relative to interference with drainage; to provide relative to the Union Parish Railroad District; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 33:404(A), 4122, 4341(A) and (C), and 4342 are hereby amended and reenacted and R.S. 33:381(F) and Chapter 50 of Title 33 of the Louisiana Revised Statutes of 1950, comprised of R.S. 33:9720, are hereby enacted to read as follows:

§381. Municipal officers

\* \* \*

**F.(1) Notwithstanding any other provision of law to the contrary, if a vacancy in the office of chief of police or fire chief in a municipality covered by**

1 the provisions of the municipal fire and police civil service law continues for a  
 2 period exceeding twelve consecutive months and the municipal governing  
 3 authority has failed or declined to confirm an appointment submitted by the  
 4 mayor or other appointing authority to the governing authority under the  
 5 requirements of a municipal home rule charter, the governor shall have the  
 6 authority to make an appointment to the position.

7 (2) The governor's appointment shall be selected from among the  
 8 candidates on the certified competitive employment list for the position and  
 9 recommended by the mayor or the local governing authority, notwithstanding  
 10 any prior rejection or denial of confirmation of a candidate by the local  
 11 governing authority.

12 (3) The mayor or appointing authority shall notify the board of the filling  
 13 of the vacancy as provided in R.S. 33:2503.

14 (4) The person appointed to the position shall begin his working test as  
 15 provided by R.S. 33:2495, and nothing herein shall be construed to prohibit the  
 16 mayor, board, or appointing authority from removing the probational employee  
 17 for the reasons and under the circumstances set forth pursuant to that Section.

18 (5) Nothing in this Section shall be construed to limit the authority of a  
 19 mayor or local appointing authority to submit appointees to a local governing  
 20 authority for confirmation under the requirements of a home rule charter.

21 (6) Any person appointed under this Section must meet all applicable  
 22 statutory, regulatory, or civil service qualifications for the position of chief of  
 23 police or fire chief.

24 (7) This Section shall apply only to municipalities with a population  
 25 greater than forty-five thousand but no more than forty-eight thousand, as  
 26 determined by the most recent federal decennial census.

27 (8) The provisions of this Section shall be retroactive to June 1, 2023.

28 \* \* \*

29 §404. Duties of mayor

30 A. The mayor shall have the following powers, duties, ~~and~~ or responsibilities:

\* \* \*

§4122. New Orleans; no obligation to provide funds

There shall be no obligation on the part of the city of New Orleans to provide funds for the operation and maintenance of the sewerage system of the city of New Orleans. **Revenue generated from automated speed enforcement devices within the parish of Orleans outside of a school zone, mobile speed cameras, or red light cameras shall be only used for the purposes of stormwater drainage infrastructure, maintenance, and improvements.**

\* \* \*

§4341. Sale or lease of revenue-producing utility property; election required; exception

A. Any municipality, the city of New Orleans excepted, or any parish or any other political subdivision or taxing district authorized to issue bonds under Article VI, Section 37, of the Constitution of Louisiana, all of which are hereinafter in this Subpart referred to as "municipality" or "parish", may sell or lease any revenue-producing properties owned by it, including all proper franchises to operate the properties for a term not to exceed sixty years, provided the governing ~~authorities~~ **have authority has** been first authorized to do so by a vote of a majority of the qualified electors, voting at an election held for that purpose as herein directed. **Notwithstanding the foregoing, the governing authority of any city, town, or village that owns and operates a water utility that receives a grade of "D" or "F" under The Community Drinking Water Infrastructure Sustainability Act, referred to as the "Act", and the rule issue pursuant to the Act, shall not be required to conduct an election to authorize the sale or lease of the utility if the governing authority finds by official action that the municipality is either financially, managerially, or technically unable to restore the utility to a grade of "C" or better as specified by the Act.** When a city, town, or village owns and operates a water, gas, or other ~~revenue producing~~ **revenue-producing** public utility, serving customers outside the territorial limits of the city, town, or village, as is allowed by law, a negotiated sale of all of the connections and utility installations

1 outside the area of the said city, town, or village and within the corporate limits of  
 2 another city, town, or village may be made to the latter city, town, or village by  
 3 negotiation and without any election, for such price as may be agreed upon between  
 4 the parties. No election shall be required to authorize the sale or lease by any  
 5 municipality or parish of revenue-producing water properties to any other  
 6 municipality, parish, or other political subdivision.

7 \* \* \*

8 C. The provisions of Subsection A of this Section shall apply to the  
 9 conveyance or lease of facilities and properties of any sewerage district to a private  
 10 person or corporation, which person or corporation shall thereby be authorized to  
 11 operate such facilities. **However, the governing authority of any city, town, or**  
 12 **village that owns and operates a sewer utility that experiences pollutant**  
 13 **discharge in excess of the Final Effluent Limitations specified in the utility's**  
 14 **Louisiana Pollutant Discharge Elimination System (LPDES) General or Site**  
 15 **Specific Permit, as reported in three or more consecutive quarters pursuant to**  
 16 **the electronic document receiving system (NetDMR) promulgated by the**  
 17 **Louisiana Department of Environmental Quality shall not be required to**  
 18 **conduct an election to authorize the sale or lease of the utility, if the governing**  
 19 **authority finds by official action that the municipality is either financially,**  
 20 **managerially, or technically unable to restore the utility to regulatory**  
 21 **compliance as required by the general or site specific permit.**

22 \* \* \*

23 §4342. Election to determine whether to dispose of utility property; certified check  
 24 as guaranty of good faith

25 **Except as otherwise provided in R.S. 33:4341, when** ~~When~~ a written and  
 26 signed proposition has been made to the governing authority of any municipality or  
 27 parish for the purchase, lease or other acquisition of any of the properties owned by  
 28 it, and franchise for operation of same, and which written proposition shall contain  
 29 a complete and detailed statement of all terms and provisions of the franchise, the  
 30 governing authority may submit to the qualified electors, at a special election called

1 for that purpose, the question of whether or not the offer made shall be accepted.  
 2 Upon presentation of a petition signed by electors, qualified to vote in a number  
 3 equal to twenty per cent of those who participated in the last preceding election held  
 4 in the parish or municipality, requesting the governing authority to accept any  
 5 proposition made to it for the purchase or lease of any of the revenue-producing  
 6 municipal properties and franchise for its operation, the governing authority within  
 7 fifteen days after the delivery of the petition to them or to their clerk, shall call a  
 8 special election within fifty days of the date of filing the petition, at which they shall  
 9 submit to the qualified electors the question of whether or not the offer made shall  
 10 be accepted.

11 Every proposition to purchase, as herein provided, shall be accompanied by  
 12 a certified check for ten thousand dollars, as a guaranty of good faith, which check  
 13 shall be forfeited to the municipality or parish, in event the proponent, if its  
 14 proposition be accepted, does not comply with and consummate the offer.

15 \* \* \*

16 **CHAPTER 50. LOCAL AUTHORITY TO CREATE**

17 **DISTRICTS AND COMMISSIONS**

18 **§9720. Local authority to create districts and commissions**

19 **Notwithstanding any other provision of law, any municipality or parish**  
 20 **within the state of Louisiana shall have the authority to create, organize, and**  
 21 **establish districts and commissions within its jurisdictional boundaries through**  
 22 **the passage of an ordinance. Districts and commissions that already have been**  
 23 **established by law prior to the enactment of this statute shall remain in full**  
 24 **effect and continue to operate under the terms of each entity's respective**  
 25 **enabling statutes or ordinances.**

26 Section 2. R.S. 38:113, 141, 142 and 214 are hereby amended and reenacted to read  
 27 as follows:

28 §113. Control of drainage channels and outfall canals in levee and drainage districts

29 **A.** The various levee and drainage districts, **and local governing bodies** shall  
 30 have **a legal servitude by which** control **is given to the local governing body or**

1 district over all public drainage channels or outfall canals within the limits of their  
 2 districts which are selected by the district, and for a space of one hundred feet on  
 3 both sides of the banks of such channels or outfall canals, and one hundred feet  
 4 continuing outward from the mouth of such channels or outfall canals, whether the  
 5 drainage channels or outfall canals have been improved by the levee or drainage  
 6 district, or have been adopted without improvement as necessary parts of or  
 7 extensions to improved drainage channels or outfall canals, and may adopt rules and  
 8 regulations for preserving the efficiency of the drainage channels or outfall canals.

9 **B. Property may not be taken or damaged by the districts or local**  
 10 **governing bodies pursuant to this Section, except for public purposes and with**  
 11 **just compensation paid to the owner.**

12 **C. The regulation or prohibition of drainage into a public system that is**  
 13 **not authorized by a natural servitude or other legal right shall not constitute a**  
 14 **taking or damaging of property.**

15 **D. The local governing authority or district shall be immune from**  
 16 **damage to public works projects by excessive, unlawful drainage into its system.**

17 \* \* \*

18 §141. Expropriation of land or improvements for drainage canals or projects

19 ~~The several parishes of Louisiana;~~ **Local governing bodies,** Orleans Parish  
 20 excepted, may expropriate land and the improvements thereon, outside of regularly  
 21 organized and acting levee districts, necessary for the construction of drainage canals  
 22 or drainage projects with enough of the adjoining property on which to build spoil  
 23 banks and on which to place the dirt removed from the drainage canals, and any  
 24 property next to or in the vicinity of the canals or projects necessary for the  
 25 construction, inspection, repair, and maintenance of the canals or projects.

26 ~~The parishes~~ **Local governing bodies** may acquire by expropriation, in the  
 27 same manner now required by existing laws regulating expropriation suits, either a  
 28 clear title to the land and improvements thereon or any servitude, right, or interest  
 29 necessary for that purpose.

30 §142. Drainage of levee and parallel or contiguous road

1           ~~The several parishes~~ **Local governing bodies** shall thoroughly drain all  
 2 public roads which are parallel or contiguous to any public levee, shall cut across  
 3 public roads all ditches and drains necessary to effect the complete and perfect  
 4 drainage of the roads and levees, and shall connect the drains and ditches with those  
 5 on private property abutting on the road.

\* \* \*

§214. Interference with drainage prohibited

8           A. No person shall dump or discharge or permit to be dumped or discharged  
 9 into any ~~waters or~~ drains of the ~~state~~ **local governing body** any trees or other objects,  
 10 substances, or materials which might interfere with the drainage.

11           B. Upon the request of the ~~Department of Transportation and Development,~~  
 12 ~~the Coastal Protection and Restoration Authority, or the Coastal Protection and~~  
 13 ~~Restoration Authority Board,~~ if the area is located within the coastal area, as defined  
 14 in ~~R.S. 49:214.2,~~ and involves integrated coastal protection, as defined in ~~R.S.~~  
 15 ~~49:214.2,~~ the state police shall issue a citation to any person who is in violation of  
 16 this Section. Every **local governing body, every** person convicted of a violation of  
 17 this Section shall be fined not less than twenty-five dollars nor more than three  
 18 hundred dollars.

19           C. Each fine imposed pursuant to the provisions of this Section shall be  
 20 collected by the court and forwarded to the ~~state treasurer~~ **local governing body** for  
 21 deposit in the ~~state treasury.~~

22 Section 3. R.S. 33:130.621.1 is hereby repealed in its entirety.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_