

2015 Regular Session

SENATE BILL NO. 220

BY SENATOR CHABERT

SPECIAL DISTRICTS. Provides relative to the Bayou Lafourche Fresh Water District. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 38:3086.21 and 3086.24, relative to the Bayou Lafourche Fresh  
3 Water District; to provide definitions; to provide the district with additional powers;  
4 to authorize the district to acquire and sell certain property; to authorize the  
5 promulgation of certain rules, regulations, and ordinances; to provide penalties; to  
6 provide terms, conditions, and requirements; and to provide for related matters.

7 Notice of intention to introduce this Act has been published.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 38:3086.21 and 3086.24 are hereby amended and reenacted to read  
10 as follows:

11 §3086.21. Creation; purposes; **definitions; jurisdiction**

12 **A.** There is hereby created a body politic and corporate to be known as Bayou  
13 Lafourche Fresh Water District, for the purpose of furnishing fresh water from any  
14 available fresh water source, including any ground water and surface water sources  
15 to the water purification facilities serving the incorporated villages, towns, and cities  
16 along Bayou Lafourche and within or adjacent to the boundaries of the district, as  
17 provided in this Part.



1 basis, charges for water so furnished.

2 D. Ad valorem taxes so levied by the district shall be assessed and collected  
3 in the same manner as state and parish taxes, and the board of commissioners shall  
4 prescribe the method for collecting any fixed charges levied on a gallonage basis.  
5 The treasurer shall be bonded in such sum as the board may require, the premium on  
6 said bond to be paid by the district.

7 E. The board of commissioners shall have power to take the necessary steps  
8 to effectuate a program of beautification of the area within the jurisdiction of the  
9 commission, particularly but not limited to the banks of Bayou Lafourche, including  
10 the necessary police power and authority to adopt penalties in connection with such  
11 program. For the purposes of this Part "beautification" shall have the following  
12 meaning: any method, procedure, or program which has the effect of creating more  
13 pleasant surroundings.

14 **F.(1) In order to accomplish the purposes of the district, the board may**  
15 **make and enforce such rules, regulations, and ordinances it shall deem**  
16 **necessary:**

17 **(a) To protect and preserve the works, improvements and properties**  
18 **owned or controlled by the district, prescribe the manner of their use by any**  
19 **person or entity, and preserve order within and adjacent to properties owned**  
20 **or controlled by the district.**

21 **(b) To protect and preserve the waterway from any substance or act**  
22 **which would render the water therein unfit for the purposes of the district,**  
23 **including but not limited to prohibiting or regulating the discharge of any**  
24 **substance into the waterway in concentrations which tend to degrade the**  
25 **chemical, physical, biological, or radiological integrity of the waterway.**

26 **(c) To prohibit any person or entity from abandoning, sinking, allowing**  
27 **to be sunk, or failing to remove any watercraft from in or on the waterway after**  
28 **having been requested to do so in writing.**

29 **(d) To prohibit any person or entity from erecting, locating, constructing,**

1 or using any building or structures within the district that may threaten the  
2 purposes of the district unless a permit has been approved by the board.

3 (e) To prohibit any person or entity from knowingly or willfully  
4 emptying, draining, or permitting to be drained from any pump, reservoir, well  
5 or oil field into the waterway any oil, salt water, or other noxious, toxic,  
6 hazardous, or poisonous gas, liquid, or substance which would render the  
7 waterway unfit for the purposes of the district or for human consumption, or  
8 would destroy the aquatic and fish life in the waterway. Each day that oil, salt  
9 water, or other prohibited substances are permitted to empty, drain or flow into  
10 the waterway shall constitute a separate and distinct offense.

11 (f) To regulate the conduct, management, and control of its operations  
12 and functions, and its structures and other facilities within its jurisdiction or  
13 under its administration.

14 (g) To protect property, life, and the welfare of its employees and the  
15 public.

16 (h) To control, use, and protect its property, equipment, and other  
17 facilities and improvements.

18 (i) To control, regulate, and protect the channel and banks of the  
19 waterway from erosion, decay, or destruction.

20 (j) To control and regulate the pumping of or flowing of water into the  
21 waterway from adjacent or nearby canals, drainage systems, bayous, ditches,  
22 streams, tributaries, or other sources which empty or are pumped into the  
23 waterway.

24 (2) Notwithstanding R.S. 34:851.27 or any other provision of law to the  
25 contrary, and upon a declaration of an emergency by the board that the size and  
26 speed of watercraft traveling through the waterway needs to be regulated to  
27 protect the integrity of the banks of the waterway due to low water levels or due  
28 to another event causing the banks to be in peril of erosion or instability, the  
29 board may:

1           **(a) Implement and enforce a "no-wake" zone where each watercraft**  
2           **shall operate at bare steerage speed, the slowest speed the watercraft can travel**  
3           **while allowing the operator to maintain directional control of the watercraft to**  
4           **produce the minimum water surface turbulence.**

5           **(b) Limit the size of watercraft permitted to travel in certain areas of the**  
6           **waterway until there is no declaration of emergency. Except during times of a**  
7           **declaration of an emergency by the board, the provisions of this Paragraph shall**  
8           **not supersede or otherwise interfere with the authority of the Department of**  
9           **Wildlife and Fisheries.**

10           **(3) The board shall not make and enforce any rules, regulations, and**  
11           **ordinances that shall impair the rights and obligations in C.C. Arts. 655 and**  
12           **656, or that shall affect any agriculture drainage established prior to the**  
13           **creation of the district.**

14           **G.** In addition, the board may adopt an anti-littering ordinance with penalties  
15 for the violation thereof not to exceed a fine of ~~two hundred fifty~~ **five hundred**  
16 dollars.

17           **H.(1) The rules, regulations, and ordinances established and**  
18           **promulgated by the board shall provide penalties and shall be enforced by any**  
19           **state or local law enforcement agency having jurisdiction in the district. Any**  
20           **violations shall be prosecuted by the district attorney in the judicial district**  
21           **where the violation occurred.**

22           **(2) The rules, regulations, and ordinances may contain penalties,**  
23           **including a fine of not more than five hundred dollars or imprisonment of not**  
24           **more than six months, or both.**

25           ~~G.~~ **I.(1)** The board of commissioners shall have full power to adopt and  
26 enforce, by penal ordinance, such sanitary regulations as it may deem necessary to  
27 protect from pollution the water so furnished, after it leaves its source and to that end  
28 may regulate the location, construction, or use of any buildings or structures within  
29 the district, where same threaten to pollute or pollute said water. **Any such action**

1 **by the board shall be subject to review by the courts.**

2 (2) For the purposes of this Part the following definitions of pollution shall  
3 apply:

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

7 (b) "Garbage" includes all putrescible waste matter except sewage and  
8 recognizable industrial byproducts and includes putrescible vegetable matter, animal  
9 offal, and animal carcasses.

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

13 (d) "Rubbish" includes all nonputrescible waste matter, except ashes, from  
14 any public or private establishment, institution, or residence.

15 (e) "Untreated sewage" includes animal feces and urine as well as any  
16 material contaminated by animal body discharges and waste feed stuff which has not  
17 been subjected to proper primary treatment. ~~Any such action by the board shall be~~  
18 ~~subject to review by the courts.~~

19 H: **J.**(1) The board shall have full power and authority to cooperate and  
20 contract with the United States government, or any of its agencies, the state of  
21 Louisiana, or any of its departments, agencies, commissions, districts, or other  
22 political subdivisions, or with any person, firm, partnership, or corporation, with the  
23 view of accomplishing the construction, maintenance, and operation of pumping  
24 facilities and appurtenant pipeline facilities, the purpose of which would be to  
25 provide fresh water for said Bayou Lafourche. In the event that such pumping  
26 facilities and appurtenant pipeline facilities are constructed, erected, or installed by  
27 the state of Louisiana, the office of engineering of the Department of Transportation  
28 and Development, state of Louisiana, the Coastal Protection and Restoration  
29 Authority Board, the board of commissioners for the Lafourche Basin Levee District,

1 the board of commissioners for the Atchafalaya Basin Levee District, the board of  
 2 commissioners for the Lafourche Parish Water District No. 1 or other local interests,  
 3 and the board of commissioners for the Bayou Lafourche ~~Freshwater~~ **Fresh Water**  
 4 District, or any of them, it shall be the obligation of the board of commissioners for  
 5 the Bayou Lafourche Fresh Water District, and the board is hereby authorized and  
 6 directed to operate and maintain such pumping and pipeline facilities so as to provide  
 7 an adequate supply of fresh water in Bayou Lafourche.

8 (2) The board of commissioners for the Bayou Lafourche Fresh Water  
 9 District shall also have power and authority to contribute to the cost of construction  
 10 and installation of such pumping and pipelining facilities from any funds available  
 11 for such purpose. It shall also be the obligation of said board to operate and maintain  
 12 such drainage facilities, floodgates, channel improvements, and drainage structures  
 13 and appurtenances constructed with the view of providing fresh water in Bayou  
 14 Lafourche and facilitating the flow thereof. The board shall have power and authority  
 15 to contribute to the cost of construction of any of the facilities mentioned in this  
 16 Section.

17 † K. The board of commissioners may implement measures for the  
 18 abatement of water hyacinths within the water bodies of the parishes of Ascension,  
 19 Assumption, and Lafourche.

20 ‡ L. The board of commissioners may develop and implement measures to  
 21 prevent the intrusion of salt water into the flow of fresh water.

22 ~~Ⓚ.~~ M. The board of commissioners may execute such contracts for the sale  
 23 or purchase of water pursuant to the authority granted the district in R.S. 33:4164.

24 † N.(1) With the approval of the Coastal Protection and Restoration  
 25 Authority Board, the board of commissioners, in addition to any other powers and  
 26 duties provided by law, may establish on its own behalf or for the areas under its  
 27 authority, particularly but not limited to the banks of Bayou Lafourche, water  
 28 resources development and integrated coastal protection, including but not limited  
 29 to the studying, engineering, designing, planning, maintenance, operation, and

1 construction of erosion control measures, marsh management, coastal restoration,  
 2 reservoirs, diversion canals, gravity and pump drainage systems, and other works as  
 3 such activities, facilities, and improvements relate to integrated coastal protection,  
 4 conservation, water resources development, and saltwater intrusion. To that end and  
 5 only upon approval of the Coastal Protection and Restoration Authority Board, the  
 6 board of commissioners may regulate the location, construction, or use of any  
 7 building or structure within the district, where such building or structure threatens  
 8 to interfere with water resources development and integrated coastal protection.

9 (2) The board of commissioners may enter into contracts or other agreements,  
 10 including cooperative endeavor agreements, with any public or private person or  
 11 persons, corporation, association, or other entity, including the Coastal Protection  
 12 and Restoration Authority Board, the state, and other agencies thereof, public  
 13 corporations, port authorities, levee districts, parishes, other political subdivisions,  
 14 or the United States government or agencies thereof, or any combination thereof, or  
 15 with the instrumentalities of any kind to provide water resources development and  
 16 integrated coastal protection, and to this end, may contract for the acceptance of any  
 17 grant of money upon the terms and conditions, including any requirement of  
 18 matching the grants in whole or in part, that may be necessary.

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

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

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	DIGEST	
SB 220 Reengrossed	2015 Regular Session	Chabert

Present law provides for the creation, purposes, and powers of the Bayou Lafourche Fresh Water District.

Proposed law provides certain definitions.

Present law provides that the district may sue and be sued.

Proposed law provides that the power of the district to be sued will not constitute a waiver of the governmental immunity to which the district is entitled.

Proposed law provides that the district may acquire by purchase, donation, or lease and may hold and use any immovable or movable property, whether corporeal or incorporeal, or any interest therein necessary or desirable for carrying out the purposes of the district, and may sell, lease, transfer, or convey any property or interest therein at any time acquired by it.

Proposed law provides for additional powers of the board. Provides that in order to accomplish its purpose the board may make and enforce such rules, regulations, and ordinances it deems necessary:

- (1) To protect and preserve the works, improvements and properties owned or controlled by the district.
- (2) To protect and preserve the waterway from any substance or act which would render the water unfit for the purposes of the district.
- (3) To prohibit any person or entity from abandoning, sinking, allowing to be sunk, or failing to remove any watercraft in or on the waterway.
- (4) To prohibit any person or entity from erecting, locating, constructing, or using any building or structures within the district that may threaten the purposes of the district until a permit has been approved by the board.
- (5) 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 waterway unfit for the purposes of the district or for human consumption or would destroy the aquatic and fish life in the waterway.
- (6) To regulate the conduct, management, and control of its operations, functions, and its structures and facilities.
- (7) To protect, property, life, and the welfare of its employees and the public.
- (8) To control, use, and protect its property, equipment, and other facilities and improvements.
- (9) To control, regulate, and protect the channel and banks of the waterway from certain actions.
- (10) To control and regulate the pumping of or flowing of water into the waterway.

Proposed law provides that upon a declaration of emergency by the board, the board may create a "no wake zone" or limit the size of vessels permitted to travel on certain areas of the waterway until there is no emergency.

Proposed law prohibits the board from making and enforcing rules, regulations, and ordinances that impair the rights and obligations in C.C. Arts. 655 and 656, or that affect any agriculture drainage established prior to the creation of the district.

Proposed law provides that all the rules, regulations, and ordinances enacted by the board will be enforceable by any local law enforcement agency having jurisdiction in the district and shall be prosecuted by the district attorney in the judicial district where the violation occurred. Further provides that any penalties may include a fine not to exceed \$500 or

imprisonment not to exceed six months, or both.

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

(Amends R.S. 38:3086.21 and 3086.24)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Deletes authority for district to acquire property by "otherwise" means.
2. Adds provision to prohibit board from making and enforcing rules that affect certain water drainage rights.

Senate Floor Amendments to engrossed bill

1. Makes technical changes.