

2021 Regular Session

SENATE BILL NO. 178

BY SENATOR WHITE

TAX/SALES. Creates the Southeast Louisiana Taxing District and authorizes the levy of a sales and use tax. (gov.sig)

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AN ACT

To enact Chapter 5-A of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:1151 through 1159, to create and establish the Southeast Louisiana Taxing District to reimburse the state for the costs associated with the Hurricane and Storm Damage Risk Reduction System infrastructure improvements; to provide for the board of directors thereof; to provide for the duties, powers, and responsibilities of said district; to authorize the district to levy and collect a sales and use tax not to exceed one percent; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 5-A of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, consisting of R.S. 39:1151 through 1159, is hereby enacted to read as follows:

§1151. Short Title

This Chapter may be cited as the "Southeast Louisiana Taxing District Act".

§1152. Legislative findings and intent

A. Following the devastation to the Greater New Orleans area caused by Hurricane Katrina, the United States Congress authorized the construction,

1 through the United States Army Corps of Engineers, of a one hundred year
2 level risk reduction system, known as the Hurricane and Storm Damage Risk
3 Reduction System (Risk Reduction System). The Risk Reduction System
4 includes five parishes located in southeast Louisiana. The Risk Reduction
5 System consists of levees, floodwalls, pumping stations, canal closure structures
6 with pumps, and gated outlets. The cost of the Risk Reduction System was
7 approximately 14 billion dollars of which the state is contractually obligated to
8 pay over 1.7 billion dollars with interest estimated to cost over 1.2 billion dollars
9 or a total of 3.27 billion dollars over a term of thirty years. However, in the
10 Consolidated Appropriations Act, 2021, Congress authorized a forgiveness of
11 the interest owed by the state provided the state makes an initial principal
12 payment to the United States Army Corps of Engineers (USACE) of 400 million
13 dollars prior to September 30, 2021, with the remaining principal to be paid to
14 the USACE by September 30, 2023, which if exercised, would save the state at
15 least 1 billion dollars.

16 B. It is the intent of the legislature and best fiscal interest of the state to
17 pay the initial payment by September 31, 2021, and subsequent full payment
18 requirements by September of 2023, to avoid the almost 1 billion dollars in
19 interest payments.

20 C. It is the intent of the legislature to partner with the five parishes
21 directly affected by the Risk Reduction System by creating a special taxing
22 authority to facilitate in the collection of a temporary tax that will contribute
23 to the total cost of this project.

24 D. It is the intent of the legislature to contribute to the overall total cost
25 of this repayment while also adhering to constitutional debt limits and
26 continuing the work of addressing significant statewide transportation backlogs,
27 maintenance and repair of state buildings, and coastal and flood prevention
28 projects for the entire state of Louisiana.

29 E.(1) The Southeast Louisiana Taxing District is hereby created as a

1 special taxing district and which shall be a body politic and corporate and a
2 political subdivision of the state with all the powers of a political subdivision
3 and with such further powers and functions as are set forth in this Chapter. The
4 creation of this district and the carrying out of its public purpose is in all
5 respects a public and governmental purpose for the improvement of the health,
6 safety, welfare, comfort, and security of the people of the district and the state,
7 and that these purposes are public purposes and that the district is performing
8 an essential governmental function and meeting a public obligation in the
9 exercise of the powers conferred upon it by this Chapter.

10 §1153. District; creation

11 The district shall be composed of those contiguous parishes which have
12 the following populations, according to the latest United State Census as
13 follows:

14 Between 23,000 and 23,400.

15 Between 35,700 and 39,000.

16 Between 52,500 and 54,500.

17 Between 300,000 and 400,000.

18 Between 400,000 and 435,000.

19 §1154. Administration of district; governing authority

20 A. The district shall be administered and governed by a board of
21 directors of eleven members composed of:

22 (1) The president of the Senate and the speaker of the House of
23 Representatives, or their designees, who shall be ex officio members of the
24 board with full right to participate in and vote on all matters.

25 (2) The state treasurer.

26 (3) The secretary of the Department of Revenue, or the designee of the
27 secretary.

28 (4) Five members appointed by the governor, one from each of the five
29 parishes which are included in the district.

1 **(5) Two residents of the state at large selected on the basis of their**
2 **experience in financial matters and their stature and ability to act effectively for**
3 **the best interests of the district and the state.**

4 **B. The governor shall designate one of the directors as chairman of the**
5 **board. The board shall elect one of their members as vice chairman and another**
6 **as treasurer. The board shall appoint a secretary and other officers, employees,**
7 **and agents as are deemed necessary who need not be directors of the district.**

8 **C. The board shall meet at least annually and the meetings shall be called**
9 **by the chairman on his notice or on request of any five members. A majority of**
10 **the directors shall constitute a quorum and a majority vote of the directors**
11 **constituting the quorum shall be necessary for any action taken by the district.**
12 **No vacancy on the board shall impair the right of a quorum to exercise all of the**
13 **rights and perform all of the duties of the district.**

14 **D. The members of the board, who shall represent the state's diverse**
15 **population as near as practicable, and who are appointed by the governor, shall**
16 **be subject to Senate confirmation and shall serve at the pleasure of the governor**
17 **for terms of four years each, or until their successors shall have been appointed**
18 **and qualified, as designated by the governor. Any appointment to fill a vacancy**
19 **on the board shall be made for the unexpired term of the member whose death,**
20 **resignation, or removal created such vacancy.**

21 **E. The board shall adopt bylaws and prescribe rules to govern its**
22 **meetings and shall fix the place or places at which meetings shall be held. The**
23 **domicile of the district shall be Baton Rouge, Louisiana.**

24 **F. The members of the board shall serve without salary or per diem**
25 **allowance but shall be entitled to reimbursement for actual and necessary**
26 **expense incurred in the performance of official duties under this Chapter, such**
27 **expense not to exceed the rate of expense reimbursement allowed to state**
28 **employees; provided, however, that such appointed members are not, at the**
29 **time such expenses are incurred, public employees otherwise entitled to such**

1 reimbursement.

2 §1155. Powers of district

3 A. The district shall have all of the rights and powers necessary to carry
4 out and effectuate the purposes and provisions of this Chapter. The district shall
5 be subject to the Public Records and Public Meetings Law. Nothing herein shall
6 be construed so as to exempt the district from compliance with the applicable
7 provisions of Louisiana laws pertaining to open meetings, public records,
8 official journals, dual office holding and employment and the Code of
9 Governmental Ethics. Without limiting the generality of the foregoing, the
10 district, as a body politic and corporate and a political subdivision of the state
11 with full corporate powers, shall have the following rights and powers:

12 (1) To adopt bylaws for the regulation of its affairs and the conduct of
13 its business.

14 (2) To adopt an official seal and alter the same at its pleasure.

15 (3) To maintain an office at such place as it may designate.

16 (4) To sue and be sued.

17 (5) To receive, administer, and comply with the conditions and
18 requirements respecting any gift, grant, or donation of any property or money.

19 (6) To make and execute contracts and other instruments necessary in
20 the exercise of the powers and functions of the district under this Chapter,
21 including contracts with persons, firms, corporations, and others.

22 (7) To transfer all or a portion of the proceeds derived by the district
23 from the levy of a sales and use tax to the state in order to assist the state in
24 making the payments to the USACE, to reimburse the state for a portion of the
25 payments the state will make to the USACE, or to assist the state in making debt
26 service payments in the event the state issues general obligation bonds to fund
27 the payments to the USACE.

28 (8) To pay its operating expenses.

29 (9) To exercise any and all other powers necessary to accomplish the

1 purposes set forth herein.

2 (10) To invest its monies in accordance with instruments and securities
3 that are legal investments under the laws of the state of Louisiana for funds of
4 the state, funds of the political subdivisions of the state, or tax exempt bonds as
5 defined in R.S. 49:342(C).

6 B. The district shall prepare an operating budget annually which shall
7 be submitted for approval to the Joint Legislative Committee on the Budget.

8 §1156. Staff; counsel; assistance by state officers, departments, and agencies;
9 auditors

10 A. The staff of the Department of the Treasury may, pursuant to a
11 cooperative endeavor agreement, serve as staff to the district under the
12 supervision of the state treasurer.

13 B. The attorney general may, pursuant to a cooperative endeavor
14 agreement, serve as counsel to the district, and subject to approval of the
15 attorney general, the district may employ or retain such other attorneys as it
16 may deem necessary and fix their compensation.

17 C. State officers, departments, and agencies may render support and
18 services to the district within their respective functions, as requested by the
19 district.

20 D. The books and accounts of the district shall be subject to audit not less
21 than annually by the legislative auditor in accordance with R.S. 24:513.

22 E. The district may employ or retain such professionals, consultants,
23 agents, financial advisers, and accountants as it may deem necessary to carry
24 out its duties under this Subpart and, the provisions of any other law to the
25 contrary notwithstanding, may determine their duties and compensation.

26 §1157. Sales taxes

27 A. The district may, in accordance with this Section, levy and collect a
28 sales and use tax not to exceed one percent within the district. The sales and use
29 tax authorized by this Section shall be imposed by ordinance of the district

1 without the need of an election and shall be levied upon the sale at retail, the
2 use, lease or rental, the consumption, and the storage for use or consumption of
3 tangible personal property, and on sales of service in the district, all as defined
4 in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statute of 1950.

5 B. The tax shall be in addition to all other authorized sales and use taxes
6 and shall be collected at the same time and in the same manner as set forth in
7 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.
8 Any sales and use tax levied by the Southeast Louisiana Taxing District shall be
9 excluded from the calculation of total sales and use taxes levied within an area
10 for the purposes of R.S. 47:338.54.

11 C. The tax shall be imposed and collected uniformly throughout the
12 district.

13 D. The district may contract with the state for the collection of said sales
14 and use taxes under such terms and conditions it may deem appropriate, and
15 may adopt such rules and regulations pursuant thereto regarding the
16 enforcement and collection of the tax authorized by this Chapter.

17 E. The district shall not be authorized to fund the sales tax revenues into
18 bonds.

19 §1158. Construction of Act

20 This Chapter does and shall be construed to provide a complete method
21 for the doing of the things authorized in this Chapter. The provisions of this Act
22 shall be liberally construed for the accomplishment of its purposes.

23 §1159. Duration of district

24 The provisions of this Chapter shall be null, void, and without effect, and
25 the district shall cease existence, and any sales and use taxes levied by the
26 district shall expire at such time that all bonds issued by the state to pay the
27 United States Army Corps of Engineers for the state's share of the costs of the
28 Risk Recovery System are paid in full; provided, however, that any delinquent
29 taxes that are paid after the expiration of the district shall be used for the

- (2) The state treasurer.
- (3) The secretary of the Department of Revenue, or the designee of the secretary.
- (4) Five members appointed by the governor, one from each of the five parishes which are included in the district.
- (5) Two residents of the state at large selected on the basis of their experience in financial matters and their stature and ability to act effectively for the best interests of the district and the state.

Proposed law provides for the selection of officers, the adoption of bylaws and rules, and the establishment of quorums. Proposed law provides that the domicile of the district shall be in Baton Rouge.

Proposed law provides that the members of the board shall serve without salary or per diem, but shall be entitled to reimbursement for actual and necessary expense incurred in the performance of official duties, but such expenses shall not exceed the rate of expense reimbursement allowed to state employees.

Proposed law provides for the powers of the district which includes to levy and collect a sales and use tax not to exceed one percent within the district. The sales and use tax shall be imposed by ordinance of the district without the need of an election and shall be levied upon the sale at retail, the use, lease or rental, the consumption, and the storage for use or consumption of tangible personal property, and on sales of service, all as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statute of 1950 in the district.

Proposed law provides that the sales tax shall be in addition to all other authorized sales and use taxes and shall be collected at the same time and in the same manner as set forth in present law. Any sales and use tax levied by the district shall be excluded from the calculation of total sales and use taxes levied within an area for the purposes of present law. Proposed law states that the tax shall be imposed and collected uniformly throughout the district and that the district may contract with the state for the collection of said sales and use taxes. Proposed law prohibits the district from funding the sales tax revenues into bonds.

Proposed law provides that proposed law shall be null, void, and without effect, and the district shall cease existence, and any sales and use taxes levied by the district shall expire at such time that all bonds issued by the state to pay the USACE for the state's share of the costs of the Risk Recovery System are paid in full; provided, however, that any delinquent taxes that are paid after the expiration of the district shall be used for the payment of state debt service on general obligation bonds.

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

(Adds R.S. 39:1151-1159)