

SENATE BILL NO. 220

BY SENATOR CHABERT

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.

18 **B. As used in this Part, the following terms and phrases shall have the**  
19 **following meanings, unless the context requires otherwise:**

20 **(1) "Board" means the board of commissioners of the Bayou Lafourche**  
21 **Fresh Water District.**

22 **(2) "District" means the Bayou Lafourche Fresh Water District.**

23 **(3) "Watercraft" means anything used or designated for navigation on**  
24 **water.**

25 **(4) "Waterway" means Bayou Lafourche or any navigable bayou or**  
26 **river, or portion thereof, located within the geographical boundaries of the**

1 **district.**

2 \* \* \*

3 §3086.24. Powers

4 A. The domicile of said board shall be in the city of Thibodaux, Lafourche  
 5 Parish, Louisiana. The district shall have the power to sue and be sued, through its  
 6 board of commissioners, and service of process in any such suit against the district  
 7 shall be made upon the chairman of the board of commissioners, the vice chairman,  
 8 or upon its secretary-treasurer. **This provision shall not constitute a waiver of the**  
 9 **governmental immunity to which the district is entitled.**

10 B. The district shall have authority to incur debt, issue bonds, and levy taxes  
 11 for the retirement of same, under the provisions of R.S. 33:3811 et seq., and to levy  
 12 special taxes under the provisions of Article VI, Sections 31 and 32 of the  
 13 ~~constitution~~ **Constitution of Louisiana** in accordance with the provisions of law  
 14 carrying these Articles into effect and particularly the applicable provisions of Title  
 15 39 of the Louisiana Revised Statutes of 1950. **The district may acquire by**  
 16 **purchase, donation, or lease and may hold and use any immovable or movable**  
 17 **property, whether corporeal or incorporeal, or any interest therein necessary**  
 18 **or desirable for carrying out the purposes of the district, and may sell, lease,**  
 19 **transfer, or convey any property or interest therein at any time after such**  
 20 **property or interest has been acquired by it.**

21 C. The district shall also have authority to fix and collect, on a gallonage  
 22 basis, charges for water so furnished.

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

28 E. The board of commissioners shall have power to take the necessary steps  
 29 to effectuate a program of beautification of the area within the jurisdiction of the  
 30 commission, particularly but not limited to the banks of Bayou Lafourche, including

1 the necessary police power and authority to adopt penalties in connection with such  
2 program. For the purposes of this Part "beautification" shall have the following  
3 meaning: any method, procedure, or program which has the effect of creating more  
4 pleasant surroundings.

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

8 (a) To protect and preserve the works, improvements and properties  
9 owned or controlled by the district, prescribe the manner of their use by any  
10 person or entity, and preserve order within and adjacent to properties owned  
11 or controlled by the district.

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

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

20 (d) To prohibit any person or entity from erecting, locating, constructing,  
21 or using any building or structures within the district that may threaten the  
22 purposes of the district unless a permit has been approved by the board.

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

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

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

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

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

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

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

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

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

29                   (3) The board shall not make and enforce any rules, regulations, and  
30                   ordinances that shall impair the rights and obligations in C.C. Arts. 655 and

1           656, or that shall affect any agriculture drainage established prior to the  
 2           creation of the district.

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

6           H.(1) The rules, regulations, and ordinances established and  
 7           promulgated by the board shall provide penalties and shall be enforced by any  
 8           state or local law enforcement agency having jurisdiction in the district. Any  
 9           violations shall be prosecuted by the district attorney in the judicial district  
 10           where the violation occurred.

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

14           ~~G.I.~~(1) The board of commissioners shall have full power to adopt and  
 15           enforce, by penal ordinance, such sanitary regulations as it may deem necessary to  
 16           protect from pollution the water so furnished, after it leaves its source and to that end  
 17           may regulate the location, construction, or use of any buildings or structures within  
 18           the district, where ~~same~~ they threaten to pollute or pollute said water. Any such  
 19           action by the board shall be subject to review by the courts.

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

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

25           (b) "Garbage" includes all putrescible waste matter except sewage and  
 26           recognizable industrial byproducts and includes putrescible vegetable matter, animal  
 27           offal, and animal carcasses.

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

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

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

7 ~~H.J.~~(1) The board shall have full power and authority to cooperate and  
8 contract with the United States government, or any of its agencies, the state of  
9 Louisiana, or any of its departments, agencies, commissions, districts, or other  
10 political subdivisions, or with any person, firm, partnership, or corporation, with the  
11 view of accomplishing the construction, maintenance, and operation of pumping  
12 facilities and appurtenant pipeline facilities, the purpose of which would be to  
13 provide fresh water for ~~said~~ Bayou Lafourche. In the event that such pumping  
14 facilities and appurtenant pipeline facilities are constructed, erected, or installed by  
15 the state of Louisiana, the office of engineering of the Department of Transportation  
16 and Development, state of Louisiana, the Coastal Protection and Restoration  
17 Authority Board, the board of commissioners for the Lafourche Basin Levee District,  
18 the board of commissioners for the Atchafalaya Basin Levee District, the board of  
19 commissioners for the Lafourche Parish Water District No. 1 or other local interests,  
20 and the board of commissioners for the Bayou Lafourche ~~Freshwater~~ **Fresh Water**  
21 District, or any of them, it shall be the obligation of the board of commissioners for  
22 the Bayou Lafourche Fresh Water District, and the board is hereby authorized and  
23 directed to operate and maintain such pumping and pipeline facilities so as to provide  
24 an adequate supply of fresh water in Bayou Lafourche.

25 (2) The board of commissioners for the Bayou Lafourche Fresh Water  
26 District shall also have power and authority to contribute to the cost of construction  
27 and installation of such pumping and pipelining facilities from any funds available  
28 for such purpose. It shall also be the obligation of ~~said~~ **the** board to operate and  
29 maintain such drainage facilities, floodgates, channel improvements, and drainage  
30 structures and appurtenances constructed with the view of providing fresh water in

1 Bayou Lafourche and facilitating the flow thereof. The board shall have power and  
2 authority to contribute to the cost of construction of any of the facilities mentioned  
3 in this Section.

4 ~~I.~~**K.** The board of commissioners may implement measures for the abatement  
5 of water hyacinths within the water bodies of the parishes of Ascension, Assumption,  
6 and Lafourche.

7 ~~J.~~**L.** The board of commissioners may develop and implement measures to  
8 prevent the intrusion of salt water into the flow of fresh water.

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

11 ~~L.~~**N.**(1) With the approval of the Coastal Protection and Restoration  
12 Authority Board, the board of commissioners, in addition to any other powers and  
13 duties provided by law, may establish on its own behalf or for the areas under its  
14 authority, particularly but not limited to the banks of Bayou Lafourche, water  
15 resources development and integrated coastal protection, including but not limited  
16 to the studying, engineering, designing, planning, maintenance, operation, and  
17 construction of erosion control measures, marsh management, coastal restoration,  
18 reservoirs, diversion canals, gravity and pump drainage systems, and other works as  
19 such activities, facilities, and improvements relate to integrated coastal protection,  
20 conservation, water resources development, and saltwater intrusion. To that end and  
21 only upon approval of the Coastal Protection and Restoration Authority Board, the  
22 board of commissioners may regulate the location, construction, or use of any  
23 building or structure within the district, where such building or structure threatens  
24 to interfere with water resources development and integrated coastal protection.

25 (2) The board of commissioners may enter into contracts or other agreements,  
26 including cooperative endeavor agreements, with any public or private person or  
27 persons, corporation, association, or other entity, including the Coastal Protection  
28 and Restoration Authority Board, the state, and other agencies thereof, public  
29 corporations, port authorities, levee districts, parishes, other political subdivisions,  
30 or the United States government or agencies thereof, or any combination thereof, or

1 with the instrumentalities of any kind to provide water resources development and  
2 integrated coastal protection, and to this end, may contract for the acceptance of any  
3 grant of money upon the terms and conditions, including any requirement of  
4 matching the grants in whole or in part, that may be necessary.

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

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