

2018 Regular Session

SENATE BILL NO. 362

BY SENATOR WARD

SPECIAL DISTRICTS. Creates regional authority for certain infrastructure needs and provides relative to taxing powers and uses. (gov sig)

1 AN ACT

2 To enact Part VIII of Chapter 2 of Title 48 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 48:771 through 780.1, relative to the Capital Area Road and
4 Bridge District; to provide for the territorial jurisdiction of the district; to provide for
5 the appointment and term of the board of commissioners; to provide for meetings of
6 the board of commissioners and the officers thereof; to provide relative to the powers
7 of the district; to authorize the district to levy special taxes, parcel fees, and sales
8 taxes if approved by a majority of the voters in the district; to provide for the
9 authorization of the district to impose a gasoline tax provided the Constitution of
10 Louisiana is amended to so allow; to provide for an effective date; and to provide for
11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Part VIII of Chapter 2 of Title 48 of the Louisiana Revised Statutes of
14 1950, to be comprised of R.S. 48:771 through 780.1, is hereby enacted to read as follows:

15 **PART VIII CAPITAL AREA ROAD AND BRIDGE DISTRICT**

16 **§771. Creation of district; territorial jurisdiction**

17 **A. The Capitol Area Road and Bridge District is hereby created as a**

1 political subdivision of the state of Louisiana for the purpose of raising revenue
2 to finance road and bridge projects to alleviate traffic congestion in the district.
3 The district shall be comprised of all territories within the geographical
4 boundaries of the parishes of East Baton Rouge, Ascension, Livingston,
5 Iberville, and West Baton Rouge.

6 B. The creation of the district and the carrying out of its public purpose
7 is in all respects public and governmental purposes for the improvement of the
8 health, safety, welfare, comfort, and security of the people of the district, for
9 whom the district will be performing a public obligation in the exercise of the
10 powers conferred upon it by this Part.

11 §772. Definitions

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

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

18 (2) "Governing authority" means the body which exercises the legislative
19 functions of a parish.

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

21 (4) "Road or bridge project" means a project undertaken pursuant to
22 this Part for the construction, development, reconstruction, acquisition,
23 extension, or improvement of works of capital improvements related to public
24 roads, streets, highways, bridges, and associated drainage, the title to which
25 shall be in the public, which project shall have a minimum total cost of not less
26 than twenty million dollars.

27 (5) "Project costs" means all costs associated with and necessary to plan,
28 design, acquire property rights, and construct a project, construction costs, and
29 such other expenses as may be necessary or incidental to the construction,

1 financing, and operation of the major project.

2 §773. Appointment and term of board of commissioners

3 A. The management and control of the district shall be vested in a board
4 of commissioners composed of eleven members.

5 (1) The secretary of the Department of Transportation and Development
6 or his designee shall be an ex officio, voting member of the board.

7 (2) The remaining ten members shall be appointed by the governor to
8 serve at the pleasure of the governor and shall be composed of the following:

9 (a) One qualified elector domiciled in each parish which will participate
10 in the district from a panel of three names to be submitted by the governing
11 authority of each such parish to the governor.

12 (b) One qualified elector domiciled from each parish which will
13 participate in the district from a panel of three names to be submitted by the
14 legislative delegation of each such parish to the governor.

15 (c) Commissioners shall be selected based on their experience in
16 financial or highway construction matters and their ability to act effectively for
17 the best interest of the district.

18 B. In the event any person so appointed ceases to be a member of the
19 board thereof for any reason, his successor shall be appointed by the governor
20 in the same manner as the original appointment provided in this Section.

21 C. Each appointment by the governor shall be submitted to the Senate
22 for confirmation.

23 D. Notwithstanding any provision of law to the contrary, members may
24 be state or local elected officials or employees of the state or any local
25 governmental subdivision.

26 §774. Meetings of board; officers; quorum; removal of commissioners; salaries
27 and expenses

28 A. At the first meeting of the board and annually thereafter, the
29 members shall select a chairman and a secretary from the membership and

1 such other officers as the board deems necessary. Meetings of the commission
2 shall be called by the chairman on his own notice or on request of any five
3 members. A majority of the commissioners shall constitute a quorum to do
4 business.

5 B. In case of the death, resignation, absence, inability, or failure to act
6 of the president, the secretary shall call the board together and the board shall
7 appoint one of their number to serve as acting president, and he shall perform
8 all the duties of president. In case of neglect of duty by any commissioner, or of
9 his failure, without good cause, to attend regular meetings for three times
10 successively, the governor, on request of the board, shall remove the
11 commissioner and appoint his successor.

12 C. The members of the board shall serve without compensation and
13 shall have the power to fix the duties, powers, and compensation of all officers,
14 agents, and employees of the commission. The district may reimburse any
15 member for expenses actually incurred in the performance of his duties
16 hereunder.

17 D. The board of commissioners shall prescribe rules to govern its
18 meetings.

19 §775. Powers of the district

20 A. The district is hereby declared to constitute and is declared to be a
21 body politic and political subdivision of the state of Louisiana, as defined in
22 Article VI, Section 44 of the Constitution of Louisiana. The district shall be
23 subject to and may avail itself of any law relating to political subdivisions
24 generally, including but not limited to the following:

25 (1) To sue and be sued.

26 (2) To adopt, use, and alter at will a corporate seal.

27 (3) To initiate or coordinate research, studies, and gathering of
28 information on the projects, including but not limited to the following:

29 (a) Engineering studies.

1 **(b) Traffic flow and pattern studies.**

2 **(c) Environmental impact studies.**

3 **(d) Location of proposed routes.**

4 **(e) Economic development impacts and benefits.**

5 **(f) Utility relocation.**

6 **(g) Right of way acquisition.**

7 **(h) Project construction cost/benefit ratio studies.**

8 **(4) To be designated an official depository for information relating to**
9 **and about the projects. As such, it is empowered to receive and preserve all**
10 **information gathered by other parties pertaining to the project.**

11 **(5) To receive money from any public or private body which may desire**
12 **to appropriate or donate such funds to be used to defray the expenses of the**
13 **district.**

14 **B.(1) In furtherance of these purposes, the commission is specifically**
15 **authorized to apply for, receive, and accept from any state or federal agency,**
16 **or local subdivision of this state, any grant or contribution of either money,**
17 **property, or other things of value to be held, used, and applied for purposes for**
18 **which such grants and contributions may be made or for any other lawful**
19 **purposes that the commission has expressly authorized herein.**

20 **(2) The commission is also specifically authorized to hire such**
21 **accountants, attorneys, engineers, or other professional or scientific or other**
22 **expert advisors as the commission in its discretion may deem necessary or**
23 **advisable in order to carry out its mission. Said professionals or scientific or**
24 **other expert advisors shall be compensated by the commission from funds**
25 **available to the commission pursuant to such agreement as may be entered into**
26 **by the commission with the hired or trained professionals or scientific or other**
27 **expert advisors. Neither the state nor any parish located within the boundaries**
28 **of the district shall in any way be a party to any agreement executed under the**
29 **provisions of this Paragraph, and neither the state nor any parish located within**

1 the boundaries of the district shall in any way be held responsible for payment
2 of compensation under the agreements entered into by the commission.

3 §776. Advice and services of the Department of Transportation and
4 Development

5 The commission and the board of commissioners therefor shall have,
6 with respect to all of the powers and functions prescribed by this Part, the
7 advice and services of the Louisiana Department of Transportation and
8 Development. Within reason, it shall be the duty of the secretary of the
9 Department of Transportation and Development to make available such
10 department staff, expertise, and support as the commission may request.

11 §777. General compliance; enhancement

12 No provision of this Part shall be construed so as to exempt the district
13 from compliance with the provisions of Louisiana laws pertaining to open
14 meetings, public records, fiscal agents, official journals, dual office holding and
15 employment, public bidding for the purpose of supplies and materials, and the
16 Code of Governmental Ethics. The district shall be permitted to use alternative
17 competitive procurement and delivery methods for the award of any contracts
18 for a major project.

19 §778. Special taxes

20 A. Pursuant to Article VI, Section 30 of the Louisiana Constitution of
21 1974, the board of commissioners may levy an ad valorem tax or taxes for a
22 term of no more than twenty years, for the purpose of acquiring, constructing,
23 improving, equipping, furnishing, maintaining, or operating any work of public
24 improvement, including both movable and immovable property necessary in
25 connection with road and bridge projects, when authorized by a majority of the
26 electors in the district who vote thereon in an election held for that purpose.

27 B. For the purpose of providing revenue to carry out the objects
28 contemplated in this Part, the board of commissioners may levy on all property
29 in the district, subject to taxation, an ad valorem tax not to exceed five mills on

1 the dollar of its assessed valuation, as provided by Article VI, Section 19 of the
2 Constitution of Louisiana. The tax shall not be levied unless the proposition to
3 levy the tax is approved by a majority of the electors of the district who vote on
4 the proposition. Furthermore, such tax shall be levied only in those parishes in
5 which a majority of the electors of the parish, voting in an election approve such
6 proposition, and such proposition on the ballot provides that the ad valorem tax
7 is to be levied only in said parishes.

8 C.(1) Subject to the approval of the State Bond Commission and the
9 approval of a majority of the electors of the district voting in an election held
10 for that purpose, the governing authority of the district shall have the authority
11 to incur debt and issue revenue bonds for the purpose of constructing,
12 acquiring, extending, or improving works of capital improvement related to
13 roads and other similar public works.

14 (2) Such bonds shall be authorized and issued in accordance with the
15 provisions of Part XIII of Chapter 4, Chapter 13, and Chapter 13-A, all of Title
16 39 of the Louisiana Revised Statutes of 1950. Such bonds shall be issued in the
17 name of the district and shall not be general obligations of the district,
18 Ascension Parish, East Baton Rouge Parish, Iberville Parish, Livingston Parish,
19 West Baton Rouge Parish, or the state of Louisiana.

20 (3) Such bonds shall be issued by the commission of the district only
21 after authorization by a majority of the electors of the district voting in an
22 election held in accordance with the election laws of the state of Louisiana.

23 §779. Parcel fees

24 A. The district may levy and collect a parcel fee within the boundaries
25 of the district which shall not exceed five hundred dollars per parcel per year.
26 The parcel fee shall be imposed by resolution or ordinance of the board of
27 commissioners of the district, only after the question of the imposition of the
28 parcel fee and the purpose, rate, and duration, not to exceed twenty years, of the
29 parcel fee has been approved by a majority of the electors of the district voting

1 at an election held therein. The proceeds of such parcel fee shall be expended
2 for road and bridge projects as set forth in the proposition approved by the
3 electors including the payment of any bonds of the district incurred for such
4 purpose. Any parcel fee imposed pursuant to this Section shall be levied and
5 collected and be due and owing annually. The fee may be carried on the tax
6 rolls and collected at the same time as parish or municipal ad valorem taxes.

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

16 (2) A judgment obtained for nonpayment of a parcel fee, upon being
17 recorded in the mortgage records of the parish, shall prime all other liens except
18 those for taxes and prior recorded local or special assessments. If there are one
19 or more property mortgages on such parcel and the mortgage holder or holders
20 have notified the tax collector in the appropriate parish of such recorded
21 mortgage or mortgages in accordance with the requirements of R.S. 47:2180.1,
22 the district, prior to proceeding against such parcel for failure to pay a parcel
23 fee, shall give notice to each mortgagee of the amount of the parcel fee due and
24 owing on such parcel and that such parcel fee must be paid within twenty days
25 after the mailing of the notice or proceedings will be commenced against the
26 parcel. The notice shall be sent to each such mortgage holder by certified mail,
27 return receipt requested, or be made by personal or domiciliary service on such
28 mortgage holder. In the event such notice is given, the district shall not
29 commence such proceedings until at least twenty days after the mailing of such

1 notice.

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

15 §780. Sales taxes

16 (1) The district may, in accordance with this Subsection, levy and collect
17 a sales and use tax not to exceed one percent within the district. The sales and
18 use tax authorized by this Subsection shall be imposed by ordinance of the
19 district and shall be levied upon the sale at retail, the use, lease or rental,
20 consumption, and the storage for use or consumption of tangible personal
21 property, and on sales of services, all as defined in Chapter 2 of Subtitle II of
22 Title 47 of the Louisiana Revised Statutes of 1950 in the district. However, the
23 ordinance imposing said tax shall be adopted by the district only after the
24 question of the imposition of the tax has been submitted to the qualified electors
25 of the district at an election to be conducted in accordance with the election laws
26 of the state of Louisiana, and the majority of those voting in the election have
27 voted in favor of the imposition of the tax.

28 (2) The tax shall be in addition to all other authorized sales and use taxes
29 and shall be collected at the same time and in the same manner as set forth in

1 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

2 Any sales and use tax levied by the Capital City Road and Bridge District shall
3 be excluded from the calculation of total sales and use taxes levied within an
4 area for the purposes of R.S. 47:338.54.

5 (3) The tax shall be imposed and collected uniformly throughout the
6 district.

7 (4) The commission may fund the sales tax revenues into bonds in the
8 manner provided by Subpart F, Part III, Chapter 4, Title 39 of the Louisiana
9 Revised Statutes of 1950 provided that the question of or proposition to
10 authorize the funding of sales tax revenues into bonds shall have been submitted
11 to the electors of the district, at an election called, conducted, canvassed, and
12 promulgated by the governing authority of the governmental entity, in
13 accordance with the Louisiana Election Code, and a majority of those electors
14 voting in such election shall have voted in favor of the question or proposition
15 to fund the sales tax revenues into bonds. The question or proposition with
16 respect to the funding of the sales tax revenues into bonds may be voted upon
17 at the election held to authorize the imposition of the sales tax or may be
18 submitted at a separate election held for such purpose. No proceeding, hearing,
19 notice, or approval shall be required for the issuance of any bonds or any
20 instrument as security therefor, except as provided by this Section or by the
21 Constitution of Louisiana.

22 §780.1. Authorization to impose a gasoline tax

23 A. In the event that an amendment to the Constitution of Louisiana
24 authorizes the imposition of a tax on gasoline and motor fuels and on special
25 fuels by a special district or a political subdivision of the state, the district shall
26 be authorized to levy a tax on all gasoline, diesel fuels, and special fuels as
27 presently taxed by the provisions of Part V-A of Chapter 7 of Subtitle II of Title
28 47 of the Revised Statutes of Louisiana of 1950. The tax authorized to be

1 imposed herein shall be in addition to any other tax imposed on gasoline, diesel
2 fuels, and special fuels.

3 B. The tax on gasoline and motor fuels and on special fuels authorized
4 by this Section shall be imposed by ordinance of the district. However, the
5 ordinance imposing said tax shall be adopted by the district only after the
6 question of the imposition of the tax has been submitted to the qualified electors
7 of the district at an election to be conducted in accordance with the election laws
8 of the state of Louisiana, and the majority of those voting in the election have
9 voted in favor of the imposition of the tax.

10 C. The tax authorized to be imposed herein shall be levied, collected, and
11 administered in the same manner as provided in Chapter 7 of Subtitle II of Title
12 47 of the Louisiana Revised Statutes of 1950 for the taxes levied on gasoline and
13 motor fuels and on special fuels.

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Martha Hess.

DIGEST

SB 362 Original

2018 Regular Session

Ward

Proposed law creates the Capital Area Road and Bridget District as a political subdivision of the state. The district is being created for the purpose of raising revenue to finance road and bridge projects to alleviate traffic congestion. The district shall be comprised of all territories within the geographical boundaries of the parish of East Baton Rouge, Ascension, Livingston, Iberville, and West Baton Rouge.

Proposed law defines, for purposes of proposed law, "bonds", "governing authority", "local governmental subdivision", "road or bridge project", and "project costs".

Proposed law provides that the management and control of the district shall be vested in a board of commissioners composed of eleven members, including the secretary of DOTD, with ten members appointed by the governor. Proposed law provides that the governing authority of each parish shall submit three names to the governor, with one from each parish to be appointed by the governor. The legislative delegation of each parish shall also submit three names to the governor, with one from each parish to be appointed by the governor.

Proposed law provides for Senate confirmation of the governor's appointments to the board and allows for members to be state or local elected officials or employees of the state or any local governmental subdivision.

Proposed law provides for meetings of the board, the selection of officers, quorums, and the removal of commissioners.

Proposed law provides for the powers of the district, and allows the district to avail itself of any laws relative to political subdivision generally, including the following:

- (1) To sue and be sued.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To initiate or coordinate research, studies, and gathering of information on the projects, including but not limited to the following:
 - (a) Engineering studies.
 - (b) Traffic flow and pattern studies.
 - (c) Environmental impact studies.
 - (d) Location of proposed routes.
 - (e) Economic development impacts and benefits.
 - (f) Utility relocation.
 - (g) Right of way acquisition.
 - (h) Project construction cost/benefit ratio studies.
- (4) To be designated an official depository for information relating to and about the projects.
- (5) To receive money from any public or private body which may desire to appropriate or donate such funds to be used to defray the expenses of the district.

Proposed law specifically authorizes the commission to apply for, receive, and accept from any state or federal agency, or local subdivision of this state, any grant or contribution of either money, property, or other things of value to be held, used, and applied for purposes for which such grants and contributions may be made or for any other lawful purposes that the commission has expressly authorized herein.

Proposed law provides that the commission shall have the advice and service of DOTD.

Proposed law provides that the district shall comply with present law pertaining to open meetings, public records, fiscal agents, official journals, dual office holding and employment, public bidding for the purpose of supplies and materials, and the Code of Governmental Ethics. Proposed law further provides that the district is permitted to use alternative competitive procurement and delivery methods for the award of any contracts for a major project.

Proposed law authorizes the board to levy an ad valorem tax or taxes for a term of no more than twenty years, for the purpose of acquiring, constructing, improving, equipping, furnishing, maintaining, or operating any work of public improvement, including both movable and immovable property necessary in connection with road and bridge projects,

when authorized by a majority of the electors in the district who vote thereon in an election held for that purpose.

The board is further authorized to levy a millage, not to exceed five mills, to provide revenue to carry out the purposes of proposed law, when authorized by a majority of the electors in the district who vote thereon in an election held for that purpose.

Proposed law authorizes, subject to the approval of the State Bond Commission and the approval of a majority of the electors of the district voting in an election held for that purpose, the district to incur debt and issue revenue bonds for the purpose of constructing, acquiring, extending, or improving works of capital improvement related to roads and other similar public works. Proposed law prohibits such bonds from being general obligations of the district, Ascension Parish, East Baton Rouge Parish, Iberville Parish, Livingston Parish, West Baton Rouge Parish, or the state of Louisiana.

Proposed law authorizes the district to levy and collect a parcel fee within the boundaries of the district which shall not exceed five hundred dollars per parcel per year, after approval of a majority of the electors voting in an election held for that purpose. Proposed law sets for the procedures to collect the parcel fee.

Proposed law also authorizes the district to levy and collect a sales tax not to exceed one percent within the district, after approval of a majority of the electors voting in an election held for that purpose, and allows for the sales tax to be funded into bonds if such is approved by the electors.

Proposed law authorizes the district to impose a gasoline tax in the event that an amendment to the Constitution of Louisiana authorizes the imposition of a tax on gasoline and motor fuels and on special fuels by a special district or a political subdivision of the state. Such tax shall be in addition to any other tax imposed on gasoline, diesel fuels, and special fuels, and must be approved by a majority of the electors of the district voting in an election for such purpose. Provides that such a tax will be levied and collected in accordance with present law.

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

(Adds R.S. 48:771-780.1)