

2016 Regular Session

SENATE BILL NO. 415

BY SENATOR GATTI

WATER/WATERWAYS. Creates Lake Bistineau Recreation and Water Conservation District. (8/1/16)

1 AN ACT  
2 To enact Part XXXV of Chapter 13 of Title 38 of the Louisiana Revised Statutes of 1950,  
3 to be comprised of R.S. 38:3087.361 through 3087.373, relative to Lake Bistineau  
4 in Bienville, Bossier, and Webster Parishes; to create the Lake Bistineau Recreation  
5 and Water Conservation District as a political subdivision of the state; to create and  
6 provide for a board of commissioners to manage the district; to provide for powers  
7 and duties of the district and the board; to authorize the board to promulgate rules  
8 and regulations to accomplish the purposes of the district; to provide relative to the  
9 duties and powers of the Department of Transportation and Development and the  
10 Louisiana Wildlife and Fisheries Commission; to provide for creation and  
11 construction of playgrounds and recreational facilities; and to provide for related  
12 matters.

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

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Part XXXV of Chapter 13 of Title 38 of the Louisiana Revised Statutes  
16 of 1950, to be comprised of R.S. 38:3087.361 through 3087.373 is hereby enacted to read  
17 as follows:

1            PART XXXV. LAKE BISTINEAU RECREATION AND WATER

2                            CONSERVATION DISTRICT

3            §3087.361. Creation

4                            There is hereby created a recreation and water conservation district to  
5            be known as the "Lake Bistineau Recreation and Water Conservation District".

6            §3087.362. Location

7                            The district shall be comprised of Ward 4, Precinct 4 in Bienville Parish,  
8            Ward 4, Precinct 9 in Bossier Parish, and precincts 39, 40, and 41 in Webster  
9            Parish.

10           §3087.363. District as political subdivision and body corporate; purpose and  
11                            powers

12                            A. The district shall be a political subdivision of the state of Louisiana,  
13            which shall have for its purpose the preservation, promotion, and development  
14            of the wealth and natural resources of the district by the conservation of the soil  
15            and water of Lake Bistineau for agricultural, recreational, commercial, and  
16            sanitary purposes and by the regulation of aquatic plant growth.

17                            B. It shall constitute a body corporate in law with all powers, rights,  
18            privileges, and immunities of a corporation. It shall have the power to sue and  
19            be sued, to buy and sell, to negotiate and execute contracts, and to incur debts  
20            and issue negotiable bonds in payment thereof under and in accordance with  
21            law. It shall have the authority to acquire by purchase or donation every type  
22            and specie of property, including servitudes and rights-of-use, necessary to its  
23            purpose, and to lease, build, operate, and maintain any works or machinery  
24            designed to accomplish the purposes of the district.

25                            C. It shall have control over the supply of fresh water from Lake  
26            Bistineau, in conjunction with the parish governing authorities, which shall be  
27            administered for the benefit of the persons residing or owning property within  
28            the district, and if it should be for the benefit of the district, it shall have the  
29            authority to sell such water for irrigation, municipal, and industrial uses both

1 within and outside the district. However, the district shall have no authority to  
2 regulate or control any use by any municipality, district, or other person of such  
3 water supply which use was being made by such municipality, district, or other  
4 person on August 1, 2016, including no authority to charge or collect any fee or  
5 charge therefor. In the event the district sells water as provided for in this  
6 Paragraph, after August 1, 2016, the proceeds shall be disbursed as follows:  
7 twenty-five percent to the commission, twenty-five percent to the Bienville  
8 Parish Police Jury, twenty-five percent to the Bossier Parish Police Jury, and  
9 twenty-five percent to the Webster Parish Police Jury. If the district seeks to  
10 sell water to a public entity, it may only do so after an affirmative majority vote  
11 of each police jury and the commission.

12 D. The district shall cooperate and contract with the government of the  
13 United States or any department or agency thereof and accept grants and  
14 donations of property and money therefrom. It shall cooperate with the state of  
15 Louisiana or any political subdivision, department, agency, or corporation of  
16 the state for the management of the waters of Lake Bistineau and the  
17 construction, operation, and maintenance of facilities designed to accomplish  
18 the purpose for which the district is created on any basis including the matching  
19 of funds and by participating in projects authorized by any federal or state law  
20 as it shall see fit.

21 §3087.364. Board of commissioners, election; tenure; vacancies; removal of  
22 members; compensation; domicile

23 A. The district shall be governed and controlled by a board of fifteen  
24 commissioners, each of whom shall be a qualified elector of Bienville, Bossier,  
25 or Webster Parishes, or a landowner of the district.

26 B.(1) The members of the board of commissioners shall be elected as  
27 follows:

28 (a) Five members elected at-large from Ward 4, Precinct 4 in Bienville  
29 Parish.

1                   **(b) Five members elected at-large from Ward 4, Precinct 9 in Bossier**  
2                   **Parish.**

3                   **(c) Five members elected at-large from precincts 39, 40, and 41 in**  
4                   **Webster Parish.**

5                   **(2) All commissioners shall be elected for a four-year term concurrent**  
6                   **with the term of the governor.**

7                   **(3) A commissioner may not serve more than two consecutive complete**  
8                   **or partial terms. Any vacancy in the office of commissioner due to death,**  
9                   **resignation, or any other cause other than expiration of a term of office shall be**  
10                  **filled by the president of the board with majority approval of the board for the**  
11                  **remainder of the unexpired term.**

12                  **C. Members of the board of commissioners shall receive no**  
13                  **compensation for their services.**

14                  **D. The board shall be domiciled within the boundaries of the district.**

15                  **§3087.365. Oaths**

16                  **Before entering upon his official duties, each member of the board of**  
17                  **commissioners shall take the oath of office provided by Article X, Section 30 of**  
18                  **the Constitution of Louisiana before an officer authorized by law to administer**  
19                  **oaths.**

20                  **§3087.366. Election of officers**

21                  **In January, after the members of the board of commissioners have been**  
22                  **elected, they shall meet and organize by electing from their number a president,**  
23                  **vice president, and secretary who shall perform the duties normally required**  
24                  **of such officers.**

25                  **§3087.367. Powers of the board**

26                  **A. In order to accomplish the purposes for which the district is created,**  
27                  **the board of commissioners may:**

28                  **(1) Assist in conserving soil and water and in developing the water**  
29                  **resources of the district, provided nothing shall be done to interfere with**

1 districts or municipalities previously organized under Louisiana law.

2 (2) Cooperate with the Department of Transportation and Development  
3 and other state agencies in the maintenance or improvement and the  
4 construction of any works or improvements for the control, retention, diversion,  
5 or utilization of water or to retard runoff of water and soil erosion; in the  
6 construction of any ditch, channel improvement, dike, dam, or levee; and in the  
7 repair, improvement, and maintenance of any of said improvements or  
8 structures.

9 (3) Make recommendations to the Louisiana Wildlife and Fisheries  
10 Commission regarding lake drawdowns for biological purposes and aquatic  
11 plant control, after it receives a presentation from the Department of Wildlife  
12 and Fisheries.

13 (4) Cooperate and contract with persons, firms, associations,  
14 partnerships, private corporations, cities of this state, or other public  
15 corporations, and with any other local, state, or federal agencies for the sale or  
16 use of any waters impounded by the district.

17 (5) Do and perform any and all things necessary or incidental to the  
18 fulfillment of the purposes for which the district is created, including salvinia  
19 eradication.

20 B. The Lake Bistineau Recreation and Water Conservation District may  
21 have, with respect to the improvements and facilities maintenance of the  
22 district, the advice of the Department of Transportation and Development, and  
23 it may request from time to time the assistance of the department to make such  
24 surveys, inspections, and investigations, render such reports, estimates, and  
25 recommendations, and furnish such plans and specifications as the board of  
26 commissioners of the district may request.

27 §3087.368. Rules and regulations

28 A. In order to accomplish the purposes of the district, the board of  
29 commissioners may make and enforce such rules and regulations as it shall

1 deem necessary and advisable:

2 (1) To protect and preserve, in conjunction with the parish governing  
3 authorities, the works, improvements, and properties owned or controlled by  
4 the district, prescribe the manner of their use by public corporations and  
5 persons, and preserve order within and adjacent thereto.

6 (2) In conjunction with the parish governing authorities and pursuant  
7 to and in accordance with any statewide laws for the management, protection,  
8 or regulation of surface water, to prescribe the permissible uses of the water  
9 supply provided by the lake and to prevent the pollution or unnecessary waste  
10 of such water supply.

11 (3) To establish rules and regulations and cause them to be enforced with  
12 regard to activities engaged in upon Lake Bistineau that are not regulated by  
13 the Louisiana Wildlife and Fisheries Commission.

14 B. The board shall make recommendations to the Louisiana Wildlife and  
15 Fisheries Commission for proposed regulations pertaining to hunting, fishing,  
16 trapping, water sports, boating, and the operation of any watercraft upon the  
17 proposed lake.

18 §3087.369. Supervision by Department of Transportation and Development

19 All of the powers and duties relative to construction and letting of  
20 contracts for construction required to be advertised by R.S. 38:2211 and 2212  
21 conferred upon the district shall be subject to and exercised under the  
22 supervisory control of the Department of Transportation and Development of  
23 the state of Louisiana, which department shall furnish to the district such  
24 engineering services as it shall require and may cooperate with the district in  
25 the construction of any work or facility considered necessary by the district and  
26 said department to the purposes of the district.

27 §3087.370. Contracts let by board

28 Any and all contracts of the district shall be let by the board of  
29 commissioners under the provisions of R.S. 38:2211 et seq.

1           §3087.371. Playgrounds, parks, and other facilities

2           The board of commissioners may cause to be created and constructed  
3           playgrounds, picnic grounds, grounds for recreation, parks, and any and all  
4           other facilities to accommodate the public and to provide adequate access to the  
5           lake, as may, within the opinion of the board, become necessary. The board of  
6           commissioners shall also provide for the construction of public access boat  
7           ramps in the district to allow for and maintain public access to Lake Bistineau  
8           for recreational purposes.

9           §3087.372. State departments; authority of corporation

10           Nothing in this Part shall be construed to impede or interfere with the  
11           control and supervision of the wildlife, fisheries, and aquatic life of the state by  
12           the Louisiana Wildlife and Fisheries Commission or the regulatory authority  
13           of the Department of Environmental Quality and its officers. The Department  
14           of Wildlife and Fisheries and the Department of Environmental Quality shall  
15           assist the board of commissioners in the conduct of its duties and functions, and  
16           the board shall advise and consult with the departments in matters relating to  
17           their respective powers and responsibilities.

18           §3087.373. Reports

19           The Department of Wildlife and Fisheries, the Department of  
20           Environmental Quality, and the Department of Transportation and  
21           Development shall submit quarterly reports to the board, relative to their  
22           responsibilities within the district.

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The original instrument was prepared by Alan Miller. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

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Proposed law creates the Lake Bistineau Recreation and Water Conservation District as a political subdivision of the state for the purpose of the preservation, promotion, and development of the wealth and natural resources of the district by the conservation of the soil and water of Lake Bistineau for agricultural, recreational, commercial, and sanitary purposes and by the regulation of aquatic plant growth.

Proposed law creates a board of commissioners to manage the district consisting of fifteen commissioners, each of whom must be a qualified elector of Bienville, Bossier, or Webster Parishes or own land in the district who are elected as follows:

- (1) Five members elected at-large from Ward 4, Precinct 4 in Bienville Parish.
- (2) Five members elected at-large from Ward 4, Precinct 9 in Bossier Parish.
- (3) Five members elected at-large from precincts 39, 40, and 41 in Webster Parish.

Proposed law provides for powers and duties of the district. Provides that the district have control over the supply of fresh water from Lake Bistineau in conjunction with the parish governing authorities of the district, including the authority to sell water for irrigation, municipal, and industrial uses both within and outside the district. Provides that the district has no authority to regulate or control the use by any municipality, district, or other person of the water which was being made on August 1, 2016, including no authority to charge or collect any fee or charge for such use. Proposed law requires that if the district sells water after August 1, 2016, the proceeds be disbursed 25% to the commission, and 25% each to the police juries of the parishes of Bienville, Bossier, and Webster. Further requires an affirmative majority vote of each police jury and the commission, if the district seeks to sell water to a public entity.

Proposed law authorizes the board of commissioners to do and perform all things necessary to fulfil the purposes for which the district is created and specifically includes salvinia eradication.

Proposed law authorizes the board of commissioners, in conjunction with the parish governing authorities, to make and enforce such rules and regulations deemed necessary including enforcement upon Lake Bistineau that are not regulated by the Louisiana Wildlife and Fisheries Commission.

Proposed law requires that all powers and duties regarding construction and letting of contracts are subject to and exercised under the supervisory control of the Department of Transportation and Development which shall also furnish the district with such engineering services as it shall require.

Proposed law authorizes the board of commissioners to create and construct playgrounds, picnic grounds, grounds for recreation, parks, and any and all other facilities to accommodate the public and to provide adequate access to the lake, as may, within the opinion of the board, become necessary. Requires that the board provide for the construction of public access boat ramps to allow for and maintain public access to Lake Bistineau for recreational purposes.

Proposed law is not to be construed to impede or interfere with the control and supervision of the wildlife, fisheries, and aquatic life of the state by the Louisiana Wildlife and Fisheries Commission or the regulatory authority of the Department of Environmental Quality. Requires that the Department of Wildlife and Fisheries and the Department of Environmental Quality assist the board in the conduct of its duties and functions, and requires the board to advise and consult with the departments in matters relating to their respective powers and responsibilities.

Proposed law requires that the Department of Wildlife and Fisheries, the Department of Environmental Quality, and the Department of Transportation and Development submit quarterly reports to the board, relative to their responsibilities within the district.

Effective August 1, 2016.

(Adds R.S. 38:3087.361 through 3087.373)

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Removes "or otherwise" from authority of district to acquire property.
2. Removes authority of district to grant franchises to telephone, telegraph, cable, and electric power companies.
3. Makes technical corrections primarily to correct spelling to "Bistineau" and to capitalize "Parishes".

Senate Floor Amendments to engrossed bill

1. Removes authority of the district to levy taxes.
2. Provides for election of the membership of the board of commissioners instead of appointment and deletes provisions for removal of appointed members for unexcused absences.
3. Removes specific authority for the board to purchase, acquire by donation, hold, sell, and convey property.
4. Provides for authority of the board to recommend lake drawdowns to the La. Wildlife and Fisheries Commission for biological purposes and aquatic plant control after it receives a presentation from the Department of Wildlife and Fisheries.
5. Specifically authorizes the board do all things necessary including salvinia eradication.
6. Removes provisions allowing the board to incur debt, issue certificates of indebtedness and issue bonds.
7. Removes authority for the board to levy and collect a parcel fee.
8. Removes authority for the board to levy and collect a vessel fee on vessels operating within the district.
9. Removes authority for the board to prescribe the manner of building bridges, piers, boathouses, seawalls, roads, fences, including those to control livestock, or other works in, along, or across any channel or extending into the lake.
10. Removes authority for the board to prescribe the manner in which natural or artificial drains, ditches, sewers, pipelines, other works shall be adjusted to or connected with the works of the district or in any watercourse and the manner in which watercourses may be used for sewer outlets for disposal of waste. Removes authority to regulate the discharge into sewers of any liquid or solid waste detrimental to the works or improvements of the district.
11. Removes provisions regarding constructions which would impede the flow of water in the lake and penalties for violations.
12. Removes authority of the board as to mineral rights and mineral leases.

13. Removes authority of the board as to regulation of commercial establishments in the district.
14. Adds requirement for quarterly reports to the board from the Department of Wildlife and Fisheries, the Department of Environmental Quality, and the Department of Transportation and Development.