

First Extraordinary Session, 2002

# ACT No. 163

HOUSE BILL NO. 156

BY REPRESENTATIVES HILL AND THOMPSON AND SENATOR  
HINES

## AN ACT

To enact R.S. 36:509(R) and Part XXV of Chapter 13 of Title 38 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 38:3087.171 through 3087.185; to create the Allen Parish Reservoir District as a political subdivision and state agency; to provide for a board of commissioners for the district; to provide for the powers and duties of the district including the power to levy taxes and issue bonds; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:509(R) is hereby enacted to read as follows:

§509. Transfer of agencies to Department of Transportation and  
Development

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R. The Allen Parish Reservoir District (R.S. 38:3087.171-3087.185) is placed within the Department of Transportation and Development and shall perform and exercise its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of R.S. 36:801.1.

Section 2. Part XXV of Chapter 13 of Title 38 of the Louisiana Revised Statutes of 1950, comprised of R.S. 38:3087.171 through 3087.185, is hereby enacted to read as follows:

PART XXV. ALLEN PARISH RESERVOIR DISTRICT

§3087.171. Creation

There is hereby created a recreation and water conservation and reservoir district to be known as the "Allen Parish Reservoir District".

§3087.172. Location

A. Initially, and solely for the purposes of selecting a site for the lake, the district shall be comprised of the area of Allen Parish.

B. After the site selection has been made, the district shall be reduced in size to the actual number of acres necessary to provide for the following:

(1) Creation of a lake, golf course, playgrounds, picnic grounds, grounds for park, and any and all other developed facilities to accommodate the public.

(2) Access to proposed improvements.

(3) Economic development areas necessary to create, build, maintain, and operate said improvements.

(4) Rights-of-way to provide for public utilities and road infrastructure.

C. Surface area for the district to carry out its obligations to create, build, maintain, and operate improvements with the understanding that all said improvements, including rights-of-way, shall be comprised of no more than six thousand acres of land.

D. Any land initially acquired by the district but not developed by the district shall be returned to the prior property owner upon

reimbursement of the district's original purchase price as determined by the board of commissioners.

§3087.173. District as political subdivision and body corporate; purpose and powers

A. The district shall be a political subdivision of the state of Louisiana and shall have for its purpose the development of the wealth and natural resources of the district by the conservation of soil and water for agricultural, recreational, commercial, industrial, and sanitary purposes. The creation and maintenance of a lake within the district shall be for such purposes. The district shall also have as one of its purposes economic development for the district.

B. It shall constitute a body corporate in law with all powers, rights, privileges, and immunities of a corporation. It may sue and be sued, buy and sell, levy taxes, negotiate and execute contracts, and incur debts and issue negotiable bonds in payment thereof under and in accordance with existing laws. It may acquire by purchase, donation, expropriation, or otherwise every type and specie of property, including servitudes and rights-of-use, necessary to its purpose, and may lease, build, operate, and maintain any works or machinery designed to accomplish the purposes of the district. It may create an economic development corporation pursuant to R.S. 33:9020 et seq.

C. Pursuant to, and without conflict with, any statewide laws for the management, protection, or regulation of surface water, the district shall have complete control over the supply of fresh water made available by its facilities, which shall be administered for the benefit of the persons residing or owning property within the district, and if it should be for the benefit of the district, it shall have the authority to sell

such water for irrigation, municipal, and industrial uses both within and outside the district.

D. The district shall constitute an agency of the state of Louisiana designed to carry out an essential governmental function of the state. The district shall be exempt from state and local sales and use taxation. It shall have the authority to cooperate and contract with the government of the United States or any department or agency thereof and to accept grants and donations of property, money, and anything of value. It shall have the authority to cooperate with the state of Louisiana or any political subdivision, department, agency, or corporation of the state for the construction, operation, and maintenance of facilities designed to accomplish the purpose for which the district is created on any basis including the matching of funds and by participating in projects authorized by any federal or state law as it shall see fit.

§3087.174. Board of commissioners, appointment; tenure; vacancies; compensation

A. The district shall be governed and controlled by a board of five commissioners, each of whom shall be a qualified elector of the state of Louisiana who resides within the limits of Allen Parish. All members of the board of commissioners shall be appointed by the governor. The appointment of the members of the board of commissioners shall be subject to Senate confirmation.

B. Initial appointments shall be made for staggered terms as specified in this Subsection, and at the termination of these initial terms of office, each term of office shall be four years. Initial terms shall be as follows as designated by the governor:

(1) Three members shall be appointed for two-year terms.

(2) Two members shall be appointed for four-year terms.

C. Any vacancy which occurs prior to the expiration of the term for which a member of the board of commissioners has been appointed shall be filled by the governor for the unexpired term.

D. Members of the board of commissioners shall receive no compensation for their services.

§3087.175. Oaths

Before entering upon his official duties, each member of the board of commissioners shall take an oath, before an officer authorized by law to administer an oath, that he will faithfully, honestly, and impartially perform his duties.

§3087.176. Election of officers; record book

Immediately after the members of the board of commissioners have been appointed by the governor, or as soon thereafter as is practicable, they shall meet and organize by electing from their number a president, vice president, and secretary who shall perform the duties normally required of such officers. The board shall also select the name by which any lake in the district is to be known and cause it to be recorded in a bound book which shall also be the depository of the minutes and proceedings of the board, certificates, oaths of commissioners, and any and all corporate acts of the board. This book shall be in the custody of the secretary of the board and shall be open for public inspection at all reasonable times.

§3087.177. Powers of the board

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

(1) Purchase, hold, sell, and convey immovable and movable property and execute such contracts as it may deem necessary or convenient to enable it to properly carry out the purposes for which it is created.

(2) Acquire servitudes and rights-of-use by purchase, expropriation, or assignment for the reservoir or recreational areas or otherwise.

(3) Assist in conserving soil and water and in developing the water resources of the district, provided nothing shall be done to interfere with districts or municipalities previously organized under Louisiana law.

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

(5) Acquire movable property by donation or purchase; employ and hire any such personnel as may be necessary in the operation of the business of the district, and fix their compensation; and further the district may employ engineers, attorneys, and other professional personnel as becomes necessary and fix their compensation.

(6) Levy taxes within the district, issue bonds, and incur indebtedness within the limitations prescribed by the Constitution of Louisiana and in the manner prescribed thereby.

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

(8) Select a domicile and home office for the district.

(9) Grant franchises to telephone, telegraph, and electric power companies and grant franchises for the purposes of laying gas, water, sewer, electric light, or other utilities to supply the inhabitants or any person or corporation with gas, water, sewerage, or light when such construction is within the reservoir.

(10) Make recommendations to the Wildlife and Fisheries Commission for proposed regulations pertaining to hunting, fishing, trapping, water sports, boating, and the operation of any watercraft upon the proposed lake.

(11) Acquire property for development of a recreational facility or lands for other development pursuant to terms and conditions established by the Allen Parish Reservoir Commission.

(12) Do and perform any and all things necessary or incident to the fulfillment of the purposes for which the district is created.

B. The Allen Parish Reservoir District shall have, with respect to the improvements and maintenance of the district, the advice of the Department of Transportation and Development, and the department shall assist the district to make such surveys, inspections, and investigations, render such reports, estimates, and recommendations, and furnish such plans and specifications as the board of commissioners of the district may request from time to time.

C. The district is hereby authorized to incur debt for any one or more of its lawful purposes, to issue in its name negotiable bonds or certificates of indebtedness evidencing such debt, and to provide for the security and payment thereof as follows:

(1) To issue certificates of indebtedness maturing within one year from date of issuance to evidence money borrowed in anticipation of current revenues for the administration, operation, construction, and maintenance costs and expenses of the district, which certificates shall be payable in principal and interest from any available income, revenues, fees, or taxes pledged to their payment by the district.

(2) To issue bonds substantially in the manner set forth in Article VI of the Constitution of Louisiana, and other authority supplemental thereto, particularly Part III of Chapter 4 of Title 39 of the Louisiana Revised Statutes of 1950. Such bonds shall be payable from an ad valorem tax on all taxable property in the district sufficient to pay such bonds in principal and interest, when approved by vote of a majority in number of the qualified electors voting on the proposition at an election held for that purpose. Such bonds shall be issued in the manner provided by the law pursuant to which they are being issued, and the maximum interest rate for the bonds shall be that prescribed by such law. The bonds shall be issued in such amount or amounts as the board of commissioners shall determine. However, the principal amount of all such bonds outstanding as of the date of the issuance of any new bonds shall never exceed ten percent of the assessed valuation of the taxable property within the district, to be ascertained by the last assessment roll of record in Allen Parish.

(3) The district shall have additional authority to levy taxes within the district under the provisions of Article VI, Section 32 of the Constitution of Louisiana, for the purpose of improving, operating, and maintaining its facilities, providing any such tax shall first be approved at an election held for said purposes in accordance with the Louisiana Election Code.

(4) The copy of any resolution levying a tax, certified by the secretary of the board of commissioners of said district, shall be transmitted to the tax assessor of the parishes in the district on or before the first day of May of the first year in which the tax is to be assessed and collected, and it shall be the duty of the assessor to assess the tax and extend the same upon the tax rolls of the parish. The tax shall be collected by the sheriff and ex officio tax collector of the respective parish in the same manner as taxes levied by the parish. Taxes assessed shall constitute the same liens upon the property assessed; shall bear the same penalties; and collection shall be enforced in the same manner and at the same time as parish taxes.

§3087.178. Rules and regulations

A. In order to accomplish the purposes of the district to protect the works, improvements, and property of the district, both immovable and movable, to secure the best results from the construction, operation, and maintenance or works and improvements, and to prevent damage to the district by misuse of any works, improvements, or properties or by the pollution by solid or liquid or substance or misuse of the waters of the district or any watercourse therein, the board of commissioners may make and enforce such rules and regulations as it shall deem necessary and advisable:

(1) To protect and preserve the works, improvements, and properties owned or controlled by the district, prescribe the manner of their use by public corporations and persons, and preserve order within and adjacent thereto.

(2) To prescribe the manner of building bridges, roads, fences, including fences for the control of livestock or other works in, along, or across any channel or extension into the reservoir.

(3) To prescribe the manner in which natural or artificial drains, ditches, sewers, pipelines, or other works shall be adjusted to or connected with the works of the district or any watercourse therein and the manner in which the watercourses of property in the district may be used for sewer outlets for disposal of waste.

(4) To prescribe the permissible uses of the water supply provided by the impoundments constructed, and to prevent the pollution or unnecessary waste of such water supply.

(5) To prohibit or regulate the discharge into sewers of the district of any liquid or solid waste deemed detrimental to the works and improvements of the district.

(6) Make recommendations to the Wildlife and Fisheries Commission for proposed regulations regulating or prohibiting all commercial fishing or trapping on the proposed lake, the issuance of permits for commercial fishing and trapping, and the regulation of the number and revocation of such permits.

(7) To execute and implement building restrictions.

(8) To describe, execute, and implement building restrictions on non-submerged lands not owned by the district but located therein and immediately adjacent to the improvements of the district in order to

maintain the integrity and enhance the value of property in the district and the surrounding area. Building restrictions for private landowners within the district will not be more strict than guidelines used by the district.

B. The board of commissioners shall make recommendations to the Wildlife and Fisheries Commission for proposed regulations pertaining to hunting and fishing, water sports, boating recreation, and all other activities engaged in upon the proposed lake or its reservoir.

§3087.179. Construction which would impede flow of water in reservoir prohibited; pollution defined and prohibited; penalties fixed for violations

A.(1) No person or public corporation shall erect within the drainage area of the district any dam or reservoir upon any stream or watercourse which will affect the proposed lake until a copy of the plans has been filed with the board of commissioners for approval.

(2) Whoever violates this Subsection shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than sixty days, or both.

B.(1) No person shall knowingly and willfully empty or drain into or permit to be drained from any pumps, reservoirs, wells, or oil fields into any stream or drain constituting the watershed of the proposed lake or from any stream within the district into the reservoir any oil, salt water, or other noxious or poisonous gases or substances which would render the water unfit for irrigation purposes or would destroy aquatic and fish life in the streams.

(2) Each and every day that oil, salt water, or other substances are permitted to flow into natural streams or drains which constitute the

watershed of the proposed lake shall constitute a separate and distinct offense.

(3) Whoever violates this Subsection shall be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than three months, or both.

C.(1) No person shall:

(a) Obstruct drainage channels which compose any drain or stream flowing into the proposed lake by bridging them except in accordance with plans, specifications, and instructions prescribed by the board of commissioners of the district.

(b) Construct dams, locks, or gates in drainage channels of the watershed of any existing or proposed lake without permission of the commission.

(c) Anchor rafts, crafts, fish traps, fish cars, and other obstacles in the channel of any stream, drain, or natural flow of the feeder streams of the watershed of the proposed lake.

(d) Drain into channels by natural or artificial inlets, except under regulations prescribed by the board of commissioners.

(e) Cause water to be diverted in any manner from the channels without the express permission of the Allen Parish Reservoir District.

(f) Float timber in the watershed of the proposed lake.

(g) Use the channels for transportation or commercial navigation, except under authority of and agreement with the board of commissioners.

(2) Whoever violates this Subsection shall be fined not less than two hundred fifty dollars nor more than five hundred dollars or imprisoned for not more than sixty days, or both.

D.(1) No proprietor, owner, lessee, or possessor of land abutting the reservoir of the proposed lake or upon any public road paralleling the water line or contiguous to the reservoir of the proposed lake shall in any manner close or place any obstruction in the drains or ditches, whether on private property or on the public road or levee adjacent to the road which will in any manner interfere with the effective, thorough, and continuous drainage into the reservoir.

(2) Whoever violates this Subsection shall be fined not less than two hundred fifty dollars nor more than five hundred dollars or imprisoned for not more than sixty days, or both.

§3087.180. Supervision by Department of Transportation and Development

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

§3087.181. Contracts let by board; bond

All contracts of the district shall be let by the board of commissioners under the provisions of R.S. 38:2181 et seq.

§3087.182. Mineral rights

Whenever it becomes necessary for the district or the Department of Transportation and Development to acquire full

ownership of any land for the purpose of constructing any work or facility within the district, the owner on his own behalf, or on behalf of his assigns in the event of a prior assignment, may retain the mineral rights to such property together with the right to grant mineral leases and servitudes thereon. No form of prescription shall divest such owner or his assigns of these rights so long as the district, the department, or some other department or agency of the state retains the ownership of the property, but should ownership pass into private hands, the prescription of nonuse provided by R.S. 31:27 shall apply as in the usual case. There shall be no drilling on any reservoir property except for directional drilling.

§3087.183. Tax exemption; mineral leases unabridged

Should the district or the Department of Transportation and Development acquire a servitude, right-of-use, or title in full ownership to immovable property or any other property in the district, such property shall not be subject to any ad valorem tax or tax of any nature by the state of Louisiana or any political subdivision thereof so long as such property is used for a purpose of the district. The provisions of this Part shall in no way abridge the rights of any individual, person, firm, or corporation from whom a servitude or right-of-use may have been acquired to lease the land for the production of oil, gas, or other minerals and to produce or cause to be produced oil, gas, or other minerals from such property so long as said leases are subject to the terms and conditions of the servitude executed in favor of the district.

§3087.184. Playgrounds, parks, and other facilities; limitation

The members of the board shall have the power to cause to be created and constructed playgrounds, picnic grounds, grounds for

recreation, parks, and any and all other facilities to accommodate the public and to provide adequate access to the proposed lake, as may within the opinion of the board become necessary, and the district shall have the right of eminent domain and expropriation in the exercise of such powers.

§3087.185. Management of fish, game, and wildlife; water level

A. The board shall have the right to determine and to fix the necessary rules and regulations pertaining to the fluctuation of the waters of the lake.

B. The Wildlife and Fisheries Commission, after due consideration of the recommendations of the board, shall also have the authority: to regulate the size and type of watercraft, boats, or other flotilla upon the waters of the lake; to issue a license or permit for each such watercraft, boat, or flotilla; and to levy and collect a license or permit fee.

C.(1) The board shall have following authority:

(a) To establish and cause to be enforced rules and regulations pertaining to all commercial establishments which may be constructed for the purpose of commercializing and making commercial use of the facilities provided by the reservoir.

(b) To license and permit such establishments and to levy and collect a fee, to be fixed by the commission, for the privilege of making commercial use of the facilities of the lake, or to refuse to license or permit any commercial establishment to use the facilities provided by the lake.

(2) The rules and regulations established and promulgated by the board of commissioners shall provide penalties for any commercial establishment operating without a permit or license.

Section 3. This Act shall become effective on April 19, 2002; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on April 19, 2002, or on the day following such approval by the legislature, whichever is later.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

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