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Opinion No. 03-0032

Syllabus:
33
96

ELECTIONS - Special Elections - Tax Bonds
SCHOOLS & SCHOOL DISTRICTS - Fiscal Management,
Department

107-A
160
R.S. 33:2740.37
R.S. 17:72-72.1
R.S. 17:64-64.1

Securities & Taxation
SPECIAL DISTRICTS
TAXATION - Sales Tax

Mr. Clayton M. Wilcox, Superintendent
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There are three separate and independent school districts within East Baton Rouge Parish—viz., the East Baton Rouge Parish School District, the City of Baker School District, and the City of Zachary School District—the territorial area of each of which is mutually exclusive of the others. Likewise, it is our opinion that each of these three school districts has its own EFI District, whose territorial boundaries are coterminous with its school district. When any of these EFI Districts submits a tax proposal to the voters, only the voters of that particular EFI District—and not any of the voters of the other two EFI Districts—may vote on the tax proposal. Of course, if any EFI District's tax proposal receives the approval of its voters, its tax proposal will become effective only within its own EFI District but will have no effect in either of the other two EFI Districts.

Dear Mr. Wilcox:

You asked us for our opinion on the status of Educational Facilities Improvement Districts (EFI) within the Parish of East Baton Rouge after the establishment of the separate Baker School District and Zachary School District. Specifically, you want this opinion to determine who may vote at a referendum to renew a certain sales and use tax for the EFI District associated with the East Baton Rouge Parish School District.

EFI Districts were created by the Louisiana Legislature in R.S. 33:2740.37. Applicable here is the provision contained in R.S. 33:2740.37(B)(1)(a), which reads as follows:

"B. (1) (a) There is hereby created in the school districts in Tangipahoa, Livingston, East Baton Rouge, West Baton Rouge, Webster, Jefferson, Lafayette, Sabine, DeSoto, Red River, Richland, Morehouse, Madison, Tensas, Natchitoches, Winn, East Carroll, West Carroll, LaSalle, Grant, Caldwell, Franklin, Ouachita, and Bienville parishes, the city of Monroe, and the city of Baker, should a city of Baker municipal school system be established as provided by law, a political subdivision to be known as an educational facilities improvement district, hereinafter sometimes referred to as a 'district'. Each district shall have boundaries coterminous with the respective school district."

As to the City of Baker School District, the above legislation explicitly creates an EFI District therein, if the City of Baker School District comes into being. The City of Baker School District, independent and separate from the school district existing for the rest of East Baton Rouge Parish, was authorized by R.S. 17:72 and 72.1 and did, in fact, come into existence, after approval from the appropriate electors and various federal authorities who oversee racial desegregation in parish elections and schools. Indeed, included with your request was proof of these facts. Thus, there is no doubt that the City of Baker School District exists separate and apart from the East Baton Rouge Parish School District, and under R.S. 33:2740.37(B)(1)(a), the City of Baker also has an EFI District which is separate and apart from the East Baton Rouge Parish EFI District and whose territorial boundaries are "coterminous" with the City of Baker School District.

R.S. 33:2740.37(E) authorizes each EFI District to levy and collect a one percent sales and use tax within the district. It also provides,

"However, the ordinance imposing said tax shall be adopted by the district only after the question of the imposition of the tax has been submitted to the qualified electors of the district at an election to be conducted in accordance with the election laws of the state of Louisiana, and the majority of those voting in the election have voted in favor of the imposition of the tax."

Because the City of Baker School District now has its own EFI District that is separate and apart from the East Baton Rouge Parish EFI District, it is not included within the East Baton Rouge Parish EFI District. Consequently, the electors within the territorial boundaries of the City of Baker EFI District will not vote to approve or disapprove of any sales and use tax levied by the East Baton Rouge Parish EFI District, nor will the East Baton Rouge Parish EFI District's sales and use tax, if approved by the voters of the East Baton Rouge Parish EFI District, have any effect within the City of Baker EFI District. Such is our opinion.

As to the City of Zachary School District, it is our opinion that it, too, has its own City of Zachary EFI District. Of course, unlike the City of Baker School District, R.S. 33:2740.37 does not specifically and explicitly mention by name the City of Zachary School District, but it is our opinion that the statutory language does not have to mention the City of Zachary School District by name for this provision to be applicable to it. It suffices that it is a school district within the Parish of East Baton Rouge, and R.S. 33:2740.37(B)(1)(a) clearly reads that EFI districts are created "in the school districts in...East Baton Rouge...parish[]." Moreover, that provision's mandate that each EFI District "shall have boundaries coterminous with the respective school district" clearly manifests a legislative intention that each school district within the parishes mentioned will have its own EFI District. It is this

legislative sense of R.S. 33:2740.37(B)(1)(a) that, like all extant legislation, it be continuing or abiding in effect and not merely a one-time snapshot creation of political subdivisions only in the years of enactment or reenactment. Indeed, the legislation first establishing the City of Zachary School District was Act 1027 of the 1999 Regular Session of the Louisiana Legislature (enacting, *inter alia*, R.S. 17:64 and 64.1). And R.S. 33:2740.37(B)(1) was last amended and reenacted in that same session within Act 3 of the 1999 Regular Session. There is a presumption that, when the Legislature enacts two Acts in the same session, it intends both Acts to be effective; consequently, the provisions of the two Acts are to be construed as though they merely present different provisions within one Act—that is, they are to be reconciled and given effect. See, for example, *Marquette Cement Mfg. Co. v. Normand*, 249 La. 1027, 192 So.2d 552 (La. 1966); *City of New Orleans v. Board of Sup'rs of Elections for Parish of Orleans*, 216 La. 116, 43 So.2d 237 (La. 1949); *State ex rel. Paillet v. Board of Parole of Louisiana*, 151 La. 720, 92 So. 312 (La. 1922); *St. Martin v. City of New Orleans*, 14 La. Ann. 113 (La. 1859). Accordingly, R.S. 33:2740.37(B)(1) and R.S. 17:64 and 64.1 are to be construed as though they contain different provisions within the one same Act.

Furthermore, with your request, you present evidence that the City of Zachary EFI District was, in fact, created and is extensively operating. It proposed a tax, got approval from the bond commission, submitted a tax ordinance to the voters of the City of Zachary EFI District, obtained voter approval, obtained federal voting rights approval, and effected the tax. Where a political subdivision is, in fact, created, anyone attacking its creation as illegal bears a heavy burden to prove that it was illegally created. We think that he would have obtained to show, in this case, that the valid creation of the political subdivision was virtually impossible under the terms of the law purporting to create it or that the law creating it was clearly unconstitutional. See *Milton v. Lincoln Par. Schl. Bd.*, 152 La. 761, 94 So. 386 (La. 1922).

Because the City of Baker EFI District was specifically and explicitly created by the language of R.S. 33:2740.37(B)(1)(a) and the City of Zachary EFI District was not specifically and explicitly created (but rather was created implicitly only by terms of the general language of that provision), we suppose a weak argument can be made that, under the maxim *inclusio unius est exclusio alterius* [the inclusion of one is the exclusion of the other], the inclusion of creating specifically and explicitly the City of Baker EFI District signifies a legislative intent to exclude the creation of the City of Zachary EFI District. But, in our opinion, such an argument would be a misuse of this maxim. "This maxim expresses a rule of construction and serves only as an aid in discovering legislative intent where such intent is not otherwise manifest. [citing case]," *Garrison v. City of Shreveport*, 179 La. 605, 613, 154 So. 622, 624 (La. 1934) (rejecting application of the maxim with respect to what municipal improvements were covered by a statute). Where the legislative intent is

otherwise made manifest by other words or parts in the statute, this maxim has no application. Likewise, this maxim of construction can only have application to a statute “[i]n the absence of any other legislation on the subject,” *Schwing v. City of Baton Rouge*, 249 So.2d 304 (La. App. 1st Cir. 1971). In our opinion, according to the words of R.S. 33:2740.37(B)(1)(a) itself, the general language of this provision provides for the creation of the City of Zachary EFI District implicitly upon creation, by R.S. 17:64 and 64.1, of the City of Zachary School District “in...East Baton Rouge...parish[].” Indeed, although useful for interpreting insurance policy language, which has to be strictly construed against the insurer [see, for example, *Bernier v. Pacific Mut. Life Ins. Co. of California*, 173 La. 1078, 139 So. 629 (La. 1932)], and useful for interpreting ambiguous statutory provisions where there is no other statutory provision, history, evidence, or clue as to what the Legislature intended, this maxim has been rejected for interpreting constitutional or statutory provisions in the additional cases of *Weidenbacher v. St. Paul Fire and Marine Ins. Co.*, 347 So.2d 1160 (La. 1977) (majority rejected the maxim over the dissent which invoked it); *Central Louisiana Telephone Co., Inc. v. Louisiana Public Service Commission*, 262 La. 819, 264 So.2d 905 (La. 1972) (reversing trial court which had relied on it); *State ex rel. Noe v. Knop*, 190 So. 135 (La. App. Orl. Cir. 1939); *Peters v. Bell*, 51 La. Ann. 1621, 26 So. 442 (La. 1898); *Bauduc v. His Creditors*, 4 La. 247, 1832 WL 851 (La. 1832) (*per* Martin, J., concurring); and *Saul v. His Creditors*, 5 Mart. (n.s.) 569, 16 Am. Dec. 212, 1827 WL 1936 (La. 1827).

Since, in our opinion, the City of Zachary School District has its own City of Zachary EFI District, it is separate and apart from the East Baton Rouge Parish EFI District. Its voters do not vote in tax elections called by the East Baton Rouge Parish EFI District, and the East Baton Rouge Parish EFI District’s taxes are not levied or collected within the City of Zachary EFI District.

Accordingly, it is our opinion that the creation of the City of Baker School District and the creation of the City of Zachary School District “in...East Baton Rouge...parish[]” has, in turn, cause to be created, under R.S. 33:2740.37(B)(1)(a), EFI Districts within each of those school districts, each EFI District having territorial boundaries coterminous with its school district. Consequently, in our opinion, there are three separate and independent school districts within East Baton Rouge Parish—*viz.*, the East Baton Rouge Parish School District, the City of Baker School District, and the City of Zachary School District—the territorial area of each of which is mutually exclusive of the others. Likewise, it is our opinion that each of these three school districts has its own EFI District, whose territorial boundaries are coterminous with its school district. When any of these EFI Districts submits a tax proposal to the voters, only the voters of that particular EFI District—and not any of the voters of the other two EFI Districts—may vote on the tax proposal. Of course, if any EFI District’s tax proposal receives the approval of its voters, its tax proposal will

OPINION NUMBER 03-0032
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East Baton Rouge Parish School District
Page 5

become effective only within its own EFI District but will have no effect in either of the other two EFI Districts.

Trusting this opinion has adequately answered your request, we are

Very truly yours,

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