

PARISH OF  CALCASIEU
State of Louisiana
ORDINANCE

ORDINANCE NO. 5855

AN ORDINANCE ratifying and re-enacting Ordinance No. 5852 which was adopted by the Calcasieu Parish Police Jury, in Regular Session convened on October 21, 2010, providing for the levy and collection of a one-and-one-half-percent (1½ %) sales and use tax by Sales Tax District No. 4-A of Calcasieu Parish, Louisiana, for a period of ten (10) years beginning January 1, 2011, in accordance with the provisions and terms of Chapter 2D of Subtitle II, Title 47 of the Louisiana Revised Statutes of 1950, as it may be amended (the "Uniform Local Sales Tax Code"), and further, upon first levy of the tax outlined herein, providing for cancellation and termination of the existing authorized sales and use tax currently levied and collected by the District under Ordinance No. 4395.

WHEREAS, pursuant to the provisions of Section 2721.6 of Title 33 of the Louisiana Revised Statutes of 1950 and Article VI, Sections 7(A), 29(B), 30 and 32 of the Louisiana Constitution of 1974, and the authority granted at a special election held within the Parish on October 2, 2010, the Parish shall levy and collect a one-and-one-half-percent (1½ %) sales and use tax for a 10-year period beginning January 1, 2011, the proceeds of which are to be allocated, distributed, and used by Sales Tax District No. 4-A of Calcasieu Parish, Louisiana, as set forth in the proposition submitted at said election, which proposition is attached hereto as Exhibit "A" and made a part of this ordinance as if fully set forth herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE POLICE JURY OF CALCASIEU PARISH, LOUISIANA, acting as the governing authority of the Parish of Calcasieu, State of Louisiana (the "Parish") and the governing authority of Sales Tax District No. 4-A of Calcasieu Parish, Louisiana (the "District") that the provisions of Ordinance No. 5852, as adopted in Regular Session on October 21, 2010, are hereby ratified and re-enacted in their entirety, as follows:

SECTION 1. District 1½ % Tax. A one-and-one-half-percent (1½ %) sales and use tax of the District authorized at a special election held in the District on October 2, 2010, upon the sale at retail, the use, the lease or rental, the consumption, the distribution and storage for use or consumption, of tangible personal property, and upon the sale of services in the District, shall be assessed, imposed, collected, paid and enforced, in the manner and subject to the terms and provisions of Chapter 2D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 as amended (hereinafter, the "Uniform Local Sales Tax Code"), the provisions of which are incorporated by reference herein.

The proceeds of the one-and-one-half-percent (1½ %) sales and use tax, described in this section shall be allocated, distributed and used by the District in the manner and for the purposes described and provided for in Exhibit "A" hereto which is the proposition approved by the electorate of the District at an election held October 2, 2010.

Upon first levy of the tax outlined herein, the existing authorized sales and use tax currently levied and collected by the District shall be canceled and terminated.

SECTION 2. Integrated Bracket Schedule Applicable to Collection. The sales and use tax described in Section 1 shall be collected on the basis of the applicable integrated bracket schedule prescribed by the Collector of Revenue, State of Louisiana, pursuant to Section 304 of Title

47 of the Louisiana Revised Statutes of 1950 (R.S. 47:304). The dealers shall remit to the sales tax collector for the Parish and comply with the Uniform Local Sales Tax Code, particularly R. S. 47:337.29, the proportionate part of the sales and use taxes collected in the District in accordance with said integrated bracket schedule.

SECTION 3. Vendor's Compensation. For the purpose of compensating the dealer in accounting for and remitting the sales and use tax described in this ordinance, each dealer shall be allowed one percent (1%) of the amount of the sales and use taxes due and accounted for and remitted to the Collector for the Parish and the District in the form of a deduction in submitting his report and/or reports and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.

SECTION 4. Exclusions and Exemptions. The taxes imposed under this ordinance are subject to specific provisions under La. R.S. 47:305 of the State sales and use tax laws and La. R.S. 47:337.9 of the Uniform Local Sales Tax Code. Neither the Parish or the District has adopted the optional exclusions or exemptions allowed by State sales and use tax law and codified under R.S. 47:337.10, nor do they plan to adopt any exclusions or exemptions that are not allowed as an exclusion or exemption from State sales and use tax. Included within the tax base is every transaction, whether sales, use, lease or rental, or service, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana.

SECTION 5. Interest. The interest on unpaid taxes provided for by La. R.S. 47:337.69 shall be at the rate of one and one-fourth percent (1-1/4%) per month.

SECTION 6. Delinquency Penalty. Penalties on the unpaid Tax as provided under La. R.S. 47:337.70 shall be five percent (5%) of the total tax due if delinquency is for not more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days or fraction thereof during which the delinquency continues, not to exceed twenty five percent (25%) in the aggregate.

SECTION 7. Penalty for False or Fraudulent Return. Penalty as provided by La. R.S. 47:337.72 shall be fifty percent (50%) of the particular sales and use taxes found to be due.

SECTION 8. Negligence Penalty. The penalty provided by La. R.S. 47:337.73 shall be five percent (5%) of the particular sales and use taxes or deficiencies found to be due, or ten dollars (\$10.00), whichever is greater.

SECTION 9. Penalty for Insufficient Funds Check. The penalty provided in La. R.S. 47:337.74 shall be an amount equal to the greater of one percent (1%) of the check or twenty dollars (\$20.00).

SECTION 10. Power to Employ Counsel; Attorney Fees. The Collector is authorized to employ private counsel to assist in the collection of any taxes, penalties or interest due under this ordinance in any dispute, contest, or other controversy involving the determination of sales and use tax due or other proceeding. Additional provisions applicable to attorney fees, inclusive of prevailing party and waiver of such fees, are included under La. R.S. 47:337.13.1 of the Uniform Local Sales Tax Code.

SECTION 11. Limits on Interest, Penalty and Attorney Fees. Should the interest, penalties or attorney fees herein, or the combined interest, penalties and attorney fees be declared to be in excess of limits provided by other law, including relevant jurisprudence, then the maximum interest, penalties and attorney fees allowed by such other law shall apply.

SECTION 12. Collector. All sales and use taxes described in this ordinance shall be collected by a "Collector" as provided by La. R.S. 47:301.(2)(b) which shall mean and include the Calcasieu Parish School Board Sales and Use Tax Department, the entity presently collecting sales and use taxes on behalf of the Parish and the District.

SECTION 13. Powers of Collector. The Collector is hereby authorized, empowered and directed to carry into effect the provisions of this ordinance, to appoint deputies, assistants or agents to assist in the performance of his duties, and in pursuance thereof to make and enforce such rules as he may deem necessary.

SECTION 14. Disposition of Revenues. All taxes, revenues, funds, assessments, monies, penalties, fees or other income which may be collected or come into the possession of the Collector under any provision or provisions of this ordinance relating to the sales and use tax described herein shall be promptly deposited by the Collector for the account of the Parish and/or the District, provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to a separate account established by the Collector with said fiscal agent pending the final determination of the protest or litigation.

Out of the funds on deposit in such special funds, the Collector shall first pay all reasonable and necessary costs and expenses of administering and collecting the sales and use tax described herein and administering the provisions of this ordinance, as well as the various administrative and enforcement procedures. Such costs and expenses shall be reported by the Collector monthly to the governing authority of the Parish, acting as the governing authority of the District.

In compliance with the special election authorizing the levy and collection of the sales and use tax described herein, after all reasonable and necessary costs and expenses of collecting and administration of the sales and use tax have been paid as provided for above, the remaining balance in such special funds shall be available for appropriation and expenditure by the governing authority of the Parish, as governing authority of the District, solely for the purposes designated in the proposition authorizing the levy of the sales and use tax described herein.

SECTION 15. Accounting for Funds. All funds or accounts described herein may be separate funds or accounts or may be a separate accounting with a general or "sweep" fund or account containing monies from multiple sources so long as separate accounting of such monies is maintained.

SECTION 16. Severability. If any one or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid or legal, shall be deemed to apply to this ordinance.

SECTION 17. Uniform Local Sales Tax Code is Controlling. If any provision of this ordinance shall be in conflict with the provisions of the Uniform Local Sales Tax Code, the provisions of the Uniform Local Sales Tax Code shall be controlling.

SECTION 18. Effect Upon Prior Sales Tax Ordinances. With respect to the Parish sales and use tax herein described and the sales and use tax of the District, this ordinance shall be considered as additional and supplemental to the ordinances heretofore adopted by this Police Jury as governing authority of the District, to provide that the sales and use tax now authorized to be levied in the Parish and the District shall hereinafter be collected, administered and enforced in the manner provided by the Uniform Local Sales Tax Code and shall not be construed to rescind and repeal any prior resolutions or ordinances of the Parish or the District relating to the levy, allocation, distribution and use of the proceeds of the sales and use tax described herein, except for the fact that upon first levy of the tax outlined herein, the existing authorized sales and use tax currently levied and collected by the District shall be canceled and terminated.

SECTION 19. Effective Date. The Tax shall be effective on January 1, 2011.

SECTION 20. Term. The Tax shall remain in effect for ten (10) years (January 1, 2011, through December 31, 2020).

SECTION 21. Publication and Recordation. A copy of this ordinance shall be duly published in the "Lake Charles American Press", official journal of the Parish and the District, as soon as is reasonably possible. A certified copy of this ordinance shall be recorded in the mortgage records of the Parish of Calcasieu, State of Louisiana.

This ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Francis Andrepont, Mr. Guy Brame, Mr. Calvin Collins, Mr. Les Farnum, Mr. Ellis Hassien, Mrs. Elizabeth Conway Griffin, Mr. Chris E. Landry, Charles S. Mackey, D.D.S., Mr. Hal McMillin, Mr. Dennis Scott, Mr. Shannon Spell, Mr. Tony Stelly, and Mr. Claude A. Syas

NAYS: None

ABSENT: Mrs. Sandra J. Treme

NOT VOTING: President Kevin Guidry

THUS DONE, PASSED AND ADOPTED on the 28th day of October, 2010.

/s/ Kevin Guidry
Kevin Guidry, President

/s/ Kathy P. Smith
Kathy P. Smith, Parish Secretary

STATE OF LOUISIANA
PARISH OF CALCASIEU

I HEREBY CERTIFY that the foregoing is a true and correct copy of the original ordinance as adopted by the Calcasieu Parish Police Jury in Special Session convened on the 28th day of October, 2010.

IN TESTIMONY WHEREOF, witness my official signature and the seal of the Parish of Calcasieu, Louisiana, on this 5th day of November, 2010.

Kathy P. Smith
Kathy P. Smith, Parish Secretary

EXHIBIT "A"

SALES TAX PROPOSITION

SUMMARY: AUTHORITY FOR SALES TAX DISTRICT NO 4-A OF CALCASIEU PARISH, LOUISIANA, (THE "DISTRICT") TO LEVY AND COLLECT A SALES AND USE TAX OF 1½% FOR A PERIOD OF TEN (10) YEARS BEGINNING JANUARY 1, 2011 (THE "TAX") WITH COLLECTIONS FROM THE LEVY OF THE TAX ESTIMATED TO BE \$19,500,000 FOR ONE ENTIRE YEAR, DEDICATED AND USED WITHIN THE DISTRICT FOR IMPROVING AND MAINTAINING PARISH ROADS AND ARTERIAL AND RURAL TRANSPORTATION ROUTES AND SYSTEMS, PUBLIC UTILITIES, AND SOLID WASTE COLLECTION AND DISPOSAL; AND AUTHORITY TO FUND THE TAX AVAILS INTO BONDS FOR SUCH PURPOSES; AND, CONTINGENT UPON SUCCESSFUL PASSAGE OF THIS PROPOSITION UPON FIRST LEVY OF THE TAX TO CANCEL AND TERMINATE THE EXISTING AUTHORIZED SALES AND USE TAX CURRENTLY LEVIED AND COLLECTED BY THE DISTRICT.

Shall Sales Tax District No. 4-A of Calcasieu Parish, Louisiana (the "District") pursuant to Article VI, Sections 19, 29 and 30 of the Louisiana Constitution of 1974 and other constitutional and statutory authority, be authorized to levy and collect a sales and use tax of 1½%, for a period of ten (10) years beginning January 1, 2011, with collections from the levy of the tax estimated to be \$19,500,000 for one entire year, upon the sale at retail, use, lease or rental, consumption and storage for use or consumption of tangible personal property and on sales of services within the District, all as presently or hereafter defined in La. R.S. 47:301 to 317, inclusive (the "Tax"), with the avails of the Tax (after paying the reasonable and necessary costs and expenses of collecting and administering the Tax) dedicated and used within the District to continue improving and maintaining Parish roads, including enhancing drainage quality affecting Parish roads which includes the provision of solid waste collection and disposal, improving arterial transportation routes and major intersections, installation or extensions of public utilities, and providing supplemental funding for rural transportation systems; and, authorization to fund avails of the Tax into bonds in various series at various times, to be used to fund the capital costs of improvements within the District, as permitted by Louisiana law, including Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended; and, upon successful passage of this proposition and initial levy of the Tax to cancel and terminate the sales and use tax currently levied by the District?

Calcasieu Parish Recording Page

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-RE: ORDN # 5855 RATIFYING AND RE-ENACTING ORDN # 5852

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Recorded Information

I hereby certify that the attached document was filed for registry and recorded in the Clerk of Court's office for Calcasieu Parish, Louisiana

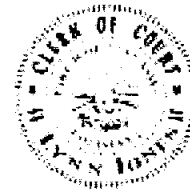
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