

CONFERENCE COMMITTEE REPORT
Senate Bill No. 395 By Senator N. Gautreaux

June 21, 2010

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 395 by Senator N. Gautreaux, recommend the following concerning the Reengrossed bill:

1. That the House Amendments Nos. 1 and 2 proposed by House Committee on Municipal, Parochial and Cultural Affairs and adopted by the House of Representatives on June 3, 2010 be adopted.
2. That Legislative Bureau Amendments Nos. 1 and 2 proposed by the Legislative Bureau and adopted by the House of Representatives on June 3, 2010 be adopted.
3. That House Floor Amendments Nos. 1 through 6 proposed by Representative Carmody and adopted by the House of Representatives on June 17, 2010 be adopted.
4. That House Floor Amendments Nos. 1 and 2 proposed by Representative Champagne and adopted by the House of Representatives on June 17, 2010 be adopted.

Respectfully submitted,

Senators:

Representatives:

Senator "Nick" Gautreaux

Representative Regina Barrow

Senator Troy Hebert

Representative Simone B. Champagne

Senator Joe McPherson

Representative Jonathan W. Perry

The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

CONFERENCE COMMITTEE REPORT DIGEST

Senate Bill No. 395 by Senator N. Gautreaux

Keyword and summary of the bill as proposed by the Conference Committee

RAILROADS. Creates a railroad district encompassing Vermilion and Iberia parishes. (8/15/10)

Report adopts House amendments to:

1. Technical amendments.
2. Adds a power to the railroad district.
3. Allows the district to lease certain property, and to enter into contracts for the "operation" of certain necessary works and facilities.
4. Adds "grade crossings" to list of improvements that the district can improve or maintain.
5. Adds that the charges by the district must not exceed fair market value.
6. Adds that a certain amount of taxes levied will be set aside for "operational upgrade" in addition to maintenance.
7. Changes the financial reporting by the district to require the district, at its own expense, to annually report to the legislative auditor in accordance with R.S. 24:513.
6. Provides for submission of the annual report to the legislative auditor.

Digest of the bill as proposed by the Conference Committee

Proposed law creates and provides for the Vermilion and Iberia Railroad Development District. Provides that the primary object and purpose of the district is for the promoting and encouraging development of the rail service running between Vermilion and Iberia parishes to stimulate the economy through renewed commerce, industry, and for the utilization and development of natural and human resources of the area by providing job opportunities.

Proposed law provides that the boundaries of the district shall be coterminous with the boundaries of Vermilion and Iberia parishes.

Proposed law provides that the district shall be administered and governed by a board of five commissioners, each of whom shall be a qualified voter of the district and who shall be appointed as follows:

- (a) Two members shall be appointed by the governing authority of the parish of Vermilion. At least one of these members shall have a bachelor's degree in agricultural science.
- (b) Two members shall be appointed by the governing authority of the parish of Iberia. At least one of these members shall have a bachelor's degree in agricultural science.
- (c) One member shall be appointed by the Twin Port Commission and ULL, subject to confirmation by the senators whose districts encompass the parishes of Vermilion and Iberia. This member must also have a bachelor's degree in engineering and must have a minimum of 5 years experience at the management and operational level of a railroad company.

Proposed law provides that board members shall serve without compensation. However, the board may authorize per diem for its members in the performance of their official duties. The per diem shall not exceed \$100.00 for attending meetings of the board for a maximum of 12 meetings per year. Per diem paid shall be paid out of the district funds in the hands of the treasurer.

Proposed law provides that the board of commissioners shall prescribe rules to govern its meetings, shall hold meetings in the city and parish as may be designated by the board within either Vermilion and Iberia parishes, and may contract with and employ attorneys, clerks, engineers, deputy commissioners, superintendents, and other agents and employees and shall fix their compensation and terms of employment.

Proposed law provides that a board member or employee of a district may not be pecuniarily interested in any contract or agreement to which the district is a party.

Proposed law provides the district shall have and exercise all powers of a political subdivision necessary or convenient for the carrying out of its objects and purposes, which include, but are not limited to, the following:

- (1) To sue and be sued.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To acquire by gift, grant, expropriation, purchase, lease, or otherwise all property, including rights-of-way; to hold and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the objects and purposes of the district, including, but not limited to, the establishment, maintenance, and operation of rail service and to engage in any action, such as the purchase of insurance, necessary or desirable for the maintenance or improvement of the district's property.
- (4) To enter into contracts for the purchase, acquisition, construction, operation, and improvement of works and facilities necessary in connection with the purposes of the district.
- (5) In its own name and on its own behalf to incur debt and to issue general obligation bonds, revenue bonds, certificates, notes, and other evidences of indebtedness and to levy and cause to be collected ad valorem taxes.
- (6) To require and issue licenses with respect to its properties and facilities.
- (7) To regulate the imposition of fees and rentals charged by the district for its facilities and services rendered by it.
- (8) To borrow money and pledge all or part of its revenues, leases, rents, or other advantages as security for such loans.
- (9) To appoint officers, agents, and employees, prescribe their duties, and fix their compensation.
- (10) To contract with a rail freight common carrier, which shall be subject to all applicable federal and state regulatory authorities, laws, rules, and regulations governing the operations of a freight common carrier railroad in Louisiana.

Proposed law provides that the district shall have the power to lease, construct and acquire railroad tracks, railway spurs, rail yards, and subordinate and related facilities, including the acquisition of sites and other necessary property or appurtenances thereto within the district, or outside the district if the project is undertaken conjointly with other local units of government, under the authority of the local services law, or other authorizing authority, and to acquire, construct, improve, operate, maintain, and provide improvements and services necessary, including but not limited to roads, street lighting, grade crossings, bridges, rail facilities, drainage, and other utilities and related properties.

Proposed law provides that the district shall also have the authority to sell, lease, or otherwise dispose of, by suitable and appropriate contract, to any enterprise locating or existing within the district all or any part of a site, building, or other property owned by the district.

Proposed law provides that the resolution or ordinance adopted by the board of commissioners authorizing any lease, sale, or other disposition of lands, buildings, or other property of the district or any attachment thereto shall set forth, in a general way, the terms of the authorized lease, sale, or other disposition, and such resolution or ordinance shall be published as soon as possible in one issue of the official journal of the district. For a period of 30 days from the date of publication of any such resolution or ordinance, any interested person may contest the legality of such resolution or ordinance or the validity of the authorized lease, sale, or other disposition of district property, after which time no one shall have any cause of action to contest the legality of said resolution or ordinance or to draw in question the legality of the authorized lease, sale, or other disposition of district property for any cause whatsoever, and it shall be conclusively presumed thereafter that every legal requirement has been complied with and no court shall have authority to inquire into such matters after the lapse of 30 days.

Proposed law provides that the district shall have the following additional powers, together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

- (1) To acquire, whether by purchase, expropriation, exchange, gift, lease, or otherwise, and to construct and improve, maintain, equip, and furnish one or more railway development projects, including all real and personal properties which the board of commissioners may deem necessary in connection therewith.
- (2) To lease or to contract for the use of any or all of its authorized projects and to charge and collect rent, fees, or charges, not to exceed the fair market value therefor, and to terminate any such lease or contractual arrangement upon the failure of the lessee or contracting party to comply with any of the obligations thereof all as may be provided for in the lease agreement to which the district may become a party.
- (3) To sell, exchange and convey any or all of its projects upon such terms and conditions as the board of commissioners may deem advisable, including the power to receive for any such sale the first mortgage note or notes of the purchaser of a project representing unpaid installments of the purchase price due by the purchaser to the district whenever the board of commissioners finds any such actions to be in furtherance of the purposes for which the district was organized.
- (4) As security for the payment of the principal of and interest on any bonds, notes or other obligations of the district and any agreements made in connection therewith, to mortgage and pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom or from any other source.
- (5) To enter into any cooperative financing associated with railroad development between or among the district and the state, any of its local governmental subdivisions, political corporations or public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual.
- (6) To enter into any cooperative development between or among the district and the state, any of its local governmental subdivisions, political corporations or public benefit corporations, the United States or its agencies under the Railroad Revitalization and Regulatory Act, or any public or private association, corporation, or individual.

Proposed law provides that the board of commissioners may, when necessary, levy annually an ad valorem tax not to exceed five mills on the dollar of assessed valuation of all property, provided that the amount, term, and purpose of said tax, as set out in a proposition submitted to a vote in accordance with the Louisiana Election Code, shall be approved by a majority of the qualified electors voting in a special election held for that purpose. The millage shall be resubmitted for voter approval every 10th year.

Proposed law provides that funds derived under this proposed law may be used only for expenses or specified purposes of the district. A certain percentage of all funds derived, to be determined by the board, shall be set aside and used exclusively for operational upgrade and maintenance. The board of commissioners shall establish and maintain, in addition to all necessary and normal accounts, the following special accounts:

- (1) A railroad development operational fund.
- (2) An account for the maintenance and operation of a railway promotional and advancement center.

Proposed law provides that the district shall have authority to incur debt for any one or more of its lawful purposes, to issue in its name negotiable bonds, notes, certificates of indebtedness, or other evidences of debt and to provide for the security and payment thereof.

Proposed law provides that the district may:

- (1) The district may in its own name and behalf incur debt and issue general obligation ad valorem property tax secured bonds.
- (2) The district may in its own name and behalf issue revenue bonds for the purposes for which the district is created or is authorized to act.
- (3) The district may in its own name and behalf borrow from time to time in the form of certificates of indebtedness.
- (4) The district may borrow the amount of the anticipated ad valorem tax, not to exceed five mills, for a period not to exceed ten years and may issue certificates of indebtedness therefor and may dedicate the avails of the tax funded for the payment thereof for the period of time said certificates are outstanding.
- (5) The board of commissioners, is authorized to adopt all necessary resolutions or ordinances which may be necessary for ordering, holding, canvassing, and promulgating the returns of any election required for the issuance of general obligation bonds, or limited tax secured obligations or for the voting of a property tax millage, which resolutions or ordinances may include covenants for the security and payment of any bonds or other evidence of debt so issued.
- (6) For a period of 30 days from the date of publication of any resolution or ordinance authorizing the issuance of any bonds, certificates of indebtedness, notes, or other evidence of debt of the district, any interested person may contest the legality of such resolution or ordinance and the validity of such bonds, certificates of indebtedness, notes, or other evidence of debt issued or proposed to be issued thereunder and the security of their payment, after which time no one shall have any cause of action to contest the legality of said resolution or ordinance or to draw in question the legality of said bonds, certificates of indebtedness, notes, or other evidence of debt, the security therefor, or the debts represented thereby for any cause whatever, and it shall be conclusively presumed that every legal requirement has been complied with, and no court shall have authority to inquire into such matters after the lapse of 30 days.
- (7) The issuance and sale of such bonds, certificates of indebtedness, notes or other evidence of debt by the district shall be subject to approval by the State Bond Commission.
- (8) Such bonds, certificates of indebtedness, notes, or other evidence of debt shall have all the qualities of negotiable instruments under the commercial laws of the state of Louisiana.

Proposed law makes the district subject to the provisions of Chapter 10 of Title 38 concerning letting of state contracts.

Proposed law provides that the property, revenues, and income of the district and the interest on bonds and notes issued by a district shall be exempt from taxation levied by the state or a political subdivision of the state.

Proposed law provides that the district, at its expense, shall annually report to the legislative auditor in accordance with R.S. 24:513.

Effective August 15, 2010.

(Adds R.S. 33:140.110 through 140.118)