

SENATE BILL NO. 395

BY SENATOR N. GAUTREAUX

1 AN ACT

2 To enact Subpart G of Part IV of Chapter 1 of Title 33 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 33:140.110 through 140.118, relative to railroad
4 districts; to provide for the district's boundaries in Vermilion and Iberia parishes and
5 for purpose, governance, and funding; to provide relative to the district's governing
6 board's powers and duties; and to provide for related matters.

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Subpart G of Part IV of Chapter 1 of Title 33 of the Louisiana Revised
10 Statutes of 1950, to be comprised of R.S. 33:140.110 through 140.118 is hereby enacted to
11 read as follows:

12 **§140.110. Vermilion and Iberia Railroad Development District; creation;**
13 **territorial jurisdiction**

14 **A. The agricultural industry constitutes a significant element in the**
15 **state's economy. In order to expand the state's economic base and to retain farm**
16 **jobs, it is necessary that the state encourage and support the development of**
17 **railroads. The Vermilion and Iberia Railroad Development District, hereinafter**
18 **referred to as the "district", is hereby created and is declared to be a body**
19 **politic and political subdivision of the state of Louisiana, as defined in Article**
20 **VI, Section 44 of the Constitution of Louisiana. Pursuant to Article VI, Sections**
21 **19 and 21 of the Constitution of Louisiana, the district, acting through its board**
22 **of commissioners, the governing authority of said district, is hereby granted all**
23 **of the rights, powers, privileges, and immunities granted to political**
24 **subdivisions for economic development purposes, including but not limited to**
25 **the power of taxation, the power to incur debt and issue revenue and general**
26 **obligation bonds, certificates of indebtedness, bond and certificate anticipation**
27 **notes, and refunding bonds, subject to the limitations hereinafter provided.**

1 **B. The district created pursuant to this Section shall be established for**
2 **the primary object and purpose of promoting and encouraging development of**
3 **the rail service running between Vermilion and Iberia parishes, to stimulate the**
4 **economy through renewed commerce, industry, and for the utilization and**
5 **development of natural and human resources of the area by providing job**
6 **opportunities.**

7 **C. The boundaries of the district shall be coterminous with the**
8 **boundaries of Vermilion and Iberia parishes.**

9 **§140.111. Board of commissioners; members, officers, agents and employees**

10 **A.(1) Governance. In order to provide for the orderly development of the**
11 **district and effectuation of the purposes of the district, the district shall be**
12 **administered and governed by a board of five commissioners, each of whom**
13 **shall be a qualified voter of the district and who shall be appointed as follows:**

14 **(a) Two members shall be appointed by the governing authority of the**
15 **parish of Vermilion. At least one of such members shall have a bachelor's**
16 **degree in agricultural science.**

17 **(b) Two members shall be appointed by the governing authority of the**
18 **parish of Iberia. At least one of such members shall have a bachelor's degree**
19 **in agricultural science.**

20 **(c) One member shall be appointed by the Twin Parish Port Commission**
21 **and the University of Louisiana at Lafayette, subject to confirmation by the**
22 **senators whose districts encompass the parishes of Vermilion and Iberia. Such**
23 **member shall have a bachelor's degree in engineering and shall have a**
24 **minimum of five years experience at the management and operational level of**
25 **a railroad company.**

26 **(2)(a) Members of the board shall serve three-year terms after initial**
27 **terms as provided in this Subparagraph. One such member shall serve an initial**
28 **term of one year; two members shall serve an initial term of two years; and two**
29 **members shall serve an initial term of three years, all as determined by lot at**
30 **the first meeting of the board. Members shall serve until their successors have**

1 been appointed and qualified.

2 (b) Any vacancy which occurs prior to the expiration of the term for
3 which a member of the board has been appointed shall be filled for the
4 remainder of the unexpired term in the same manner as the original
5 appointment.

6 (c) The commissioners shall elect from their membership a chairman,
7 vice chairman, secretary-treasurer, and such other officers as they may deem
8 necessary. The board shall hold at least one regular meeting each month for the
9 purpose of transacting business of the district.

10 (d) Board members shall serve without compensation. However, the
11 board may authorize per diem for its members in the performance of their
12 official duties. The per diem shall not exceed one hundred dollars for attending
13 meetings of the board for a maximum of twelve meetings per year. Per diem
14 paid pursuant to this Subparagraph shall be paid out of district funds in the
15 hands of the treasurer.

16 (e) A majority of the membership of the board shall constitute a quorum
17 for the transaction of business.

18 (f) The board of commissioners shall prescribe rules to govern its
19 meetings, shall hold meetings in the city and parish as may be designated by the
20 board within either Vermilion or Iberia parishes, may contract with and employ
21 attorneys, clerks, engineers, deputy commissioners, superintendents, and other
22 agents and employees, and shall fix their compensation and terms of
23 employment.

24 (g) A board member or employee of a district may not have a pecuniary
25 interest, directly or indirectly, in any contract or agreement to which the district
26 is a party.

27 §140.112. Powers of district

28 A. The district, acting by and through its board of commissioners, shall
29 have and exercise all powers of a political subdivision necessary or convenient
30 for the carrying out of its objects and purposes, including but not limited to

1 rights and powers set out in this Subsection:

2 (1) To sue and be sued.

3 (2) To adopt, use, and alter at will a corporate seal.

4 (3) To acquire by gift, grant, expropriation, purchase, lease, or otherwise
5 all property, including rights-of-way; to hold and use any franchise or property,
6 immovable, movable, or mixed, corporeal or incorporeal, or any interest
7 therein, necessary or desirable for carrying out the objects and purposes of the
8 district, including but not limited to the establishment, maintenance, and
9 operation of rail services; and to engage in any action, such as the purchase of
10 insurance, necessary or desirable for the maintenance or improvement of the
11 district's property.

12 (4) To enter into contracts for the purchase, acquisition, construction,
13 operation, and improvement of works and facilities necessary in connection with
14 the purposes of the district.

15 (5) In its own name and on its own behalf to incur debt and to issue
16 general obligation bonds, revenue bonds, certificates, notes, and other evidences
17 of indebtedness and to levy and cause to be collected ad valorem taxes as
18 provided in this Subpart and as may be provided by general law.

19 (6) To require and issue licenses with respect to its properties and
20 facilities.

21 (7) To regulate the imposition of fees and rentals charged by the district
22 for its facilities and services rendered by it.

23 (8) To borrow money and pledge all or part of its revenues, leases, rents,
24 or other advantages as security for such loans.

25 (9) To appoint officers, agents, and employees, prescribe their duties, and
26 fix their compensation.

27 (10) To contract with a rail freight common carrier but only one
28 authorized under Title 49 of the U.S. Code to operate over the rail lines of the
29 district in providing and conducting rail services for the district, which
30 company shall be subject to all applicable federal and state regulatory

1 authorities, laws, rules, and regulations governing the operations of a freight
2 common carrier railroad in Louisiana.

3 §140.113. Railroad development

4 A.(1) The district shall have the power to lease, construct and acquire
5 railroad tracks, railway spurs, rail yards, and subordinate and related facilities,
6 including the acquisition of sites and other necessary property or appurtenances
7 thereto within the district, or outside the district if the project is undertaken
8 conjointly with other local units of government, under the authority of The
9 Local Services Law, R.S. 33:1321, et seq., or other authorizing authority, and
10 to acquire, construct, improve, operate, maintain, and provide improvements
11 and services necessary therefor, including but not limited to roads, street
12 lighting, grade crossings, bridges, rail facilities, drainage, and other utilities and
13 related properties.

14 (2) The district shall also have the authority to sell, lease, or otherwise
15 dispose of, by suitable and appropriate contract, to any enterprise locating or
16 existing within the district all or any part of a site, building, or other property
17 owned by the district. In determining the consideration for any contract to
18 lease, sell, or otherwise dispose of lands, buildings, or other property of the
19 district, the board of commissioners may take into consideration the value of the
20 lands, buildings, or other properties involved as well as the potential value of
21 the economic impact of the enterprise being induced to locate or expand within
22 the district. Such economic impact shall include increased employment,
23 increased use of local labor, wages and salaries to be paid, consumption of local
24 materials, products, and resources, and special tax revenues to be generated by
25 the enterprise acquiring or leasing lands, buildings, or other property from the
26 district. In no event, however, and under no circumstances shall the board
27 dispose of any property of the district for less than the fair market value of the
28 property as defined in R.S. 47:2321, without the prior approval of the State
29 Bond Commission. The district shall be empowered to enter into leases having
30 a term, including all renewal terms, not to exceed fifty years in the aggregate.

1 The approval of the State Bond Commission shall be conclusive for purposes of
2 compliance with the requirements of this Paragraph.

3 (3) The resolution or ordinance adopted by the board of commissioners
4 authorizing any lease, sale, or other disposition of lands, buildings, or other
5 property of the district or any attachment thereto shall set forth, in a general
6 way, the terms of the authorized lease, sale, or other disposition, and such
7 resolution or ordinance shall be published as soon as possible in one issue of the
8 official journal of the district. For a period of thirty days from the date of
9 publication of any such resolution or ordinance, any interested person may
10 contest the legality of such resolution or ordinance or the validity of the
11 authorized lease, sale, or other disposition of district property, after which time
12 no one shall have any cause of action to contest the legality of such resolution
13 or ordinance or to draw in question the legality of the authorized lease, sale, or
14 other disposition of district property for any cause whatsoever, and it shall be
15 conclusively presumed thereafter that every legal requirement has been
16 complied with and no court shall have authority to inquire into such matters
17 after the lapse of the thirty days.

18 B. The district shall have the following additional powers, together with
19 all powers incidental thereto or necessary for the performance of those
20 hereinafter stated:

21 (1) To acquire, whether by purchase, expropriation, exchange, gift, lease,
22 or otherwise, and to construct and improve, maintain, equip, and furnish one
23 or more railway development projects, including all immovable and movable
24 properties which the board of commissioners may deem necessary in connection
25 therewith.

26 (2) To lease or to contract for the use of any or all of its authorized
27 projects and to charge and collect rent, fees, or charges, not to exceed the fair
28 market value therefor, and to terminate any such lease or contractual
29 arrangement upon the failure of the lessee or contracting party to comply with
30 any of the obligations thereof all as may be provided for in the lease agreement

1 to which the district may become a party.

2 (3) To sell, exchange, and convey any or all of its projects upon such
3 terms and conditions as the board of commissioners may deem advisable,
4 including the power to receive for any such sale the first mortgage note or notes
5 of the purchaser of a project representing unpaid installments of the purchase
6 price due by the purchaser to the district whenever the board of commissioners
7 finds any such actions to be in furtherance of the purposes for which the district
8 was organized.

9 (4) As security for the payment of the principal of and interest on any
10 bonds, notes or other obligations of the district and any agreements made in
11 connection therewith, to mortgage and pledge any or all of its projects or any
12 part or parts thereof, whether then owned or thereafter acquired, and to pledge
13 the revenues and receipts therefrom or from any other source.

14 (5)(a) To enter into any cooperative financing associated with railroad
15 development between or among the district and the state, any of its local
16 governmental subdivisions, political corporations or public benefit
17 corporations, the United States or its agencies, or any public or private
18 association, corporation, or individual.

19 (b) To enter into any cooperative development between or among the
20 district and the state, any of its local governmental subdivisions, political
21 corporations or public benefit corporations, the United States or its agencies
22 under the Railroad Revitalization and Regulatory Reform Act, or any public or
23 private association, corporation, or individual. Said methods of cooperative
24 development shall include but not be limited to any number of joint
25 development agreements and cooperative ownerships, limited partnerships, and
26 investment syndicates not prohibited by the Constitution of Louisiana.
27 Regardless of the method of financing, the district shall attempt to obtain the
28 most favorable arrangement available in order to protect and ensure economic
29 development and the railway system.

30 §140.114. Fees and ad valorem tax; borrowing money

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

8 B. All funds derived under this Section may be used only for expenses or
9 specified purposes of the district. A certain percentage of all funds derived
10 under this Section, to be determined by the board, shall be set aside and used
11 exclusively for operational upgrade and maintenance. The board of
12 commissioners shall establish and maintain, in addition to all necessary and
13 normal accounts, the following special accounts:

14 (1) A railroad development operational fund, for the attraction of
15 railroad development to accomplish the following:

16 (a) The operational fund shall be used for operating expenses necessary
17 in promotion of industrial and commercial development of the railway system
18 between the parishes of Vermilion and Iberia, in hiring sufficient staff to
19 accomplish the purposes set out in this Subpart, and other related expenses.

20 (b) The operational fund may also be utilized in contracting for services
21 as may be required by the district including but not limited to planning
22 assistance, surveys, land use studies, technical services, and other services
23 necessary to effectuate a unified railroad development plan.

24 (2) An account for the maintenance and operation of a railway
25 promotional and advancement center to provide necessary information to
26 companies and individuals engaged in providing services and goods to help
27 identify potential customers and aid and assist the customers and user
28 companies in developing and transporting their products or services.

29 §140.115. Obligations of the district

30 A. The district shall have authority to incur debt for any one or more of

1 its lawful purposes set forth in this Subpart, to issue in its name negotiable
2 bonds, notes, certificates of indebtedness, or other evidences of debt and to
3 provide for the security and payment thereof.

4 B.(1) The district may in its own name and behalf incur debt and issue
5 general obligation ad valorem property tax secured bonds under the authority
6 of and subject to the provisions of Article VI, Section 33 of the Constitution of
7 Louisiana, Subpart A of Part III of Chapter 4 of Subtitle II of Title 39 of the
8 Louisiana Revised Statutes of 1950, when approved by a majority of the
9 qualified voters who vote in a special election called and conducted under the
10 authority of the Louisiana Election Code, including Chapter 6-A of Title 18 of
11 the Louisiana Revised Statutes of 1950, as amended. General obligation bonds
12 of the district may be issued for any of the purposes for which the district is
13 created or is authorized to act under any provisions of this Subpart, all of which
14 purposes are hereby found and declared to be public purposes and functions of
15 the state of Louisiana, which are delegated to the district.

16 (2) The district may in its own name and behalf issue revenue bonds for
17 the purposes for which the district is created or is authorized to act under any
18 of the provisions of this Subpart, including railroad rehabilitation and
19 improvement revenue bonds. Said bonds shall be issued in the manner as
20 provided for in R.S. 39:991 through 1001 and R.S. 39:1011 through 1024.

21 (3) The district may in its own name and behalf borrow from time to
22 time in the form of certificates of indebtedness. The certificates shall be secured
23 by the dedication and pledge of money of the district derived from any lawful
24 sources, including fees, lease rentals, service charges, local service agreement
25 payments from one or more other contracting parties, the avails of ad valorem
26 property taxation, or any combination of such sources of income, provided that
27 the term of such certificates shall not exceed ten years and the annual debt
28 service on the amount borrowed shall not exceed the anticipated revenues to be
29 dedicated and pledged to the payment of the certificates of indebtedness, as
30 shall be estimated by the board of commissioners of the district at the time of

1 the adoption of the resolution authorizing the issuance of such certificates. The
2 estimate of the board of commissioners referred to in the authorizing resolution
3 shall be conclusive for all purposes of this Section.

4 (4) The district may borrow the amount of the anticipated ad valorem
5 tax, not to exceed five mills, authorized by R.S. 33:140.75 for a period not to
6 exceed ten years and may issue certificates of indebtedness therefor and may
7 dedicate the avails of the tax funded for the payment thereof for the period of
8 time said certificates are outstanding.

9 (5) The board of commissioners, as the governing authority of the
10 district, is authorized to adopt all necessary resolutions or ordinances which
11 may be necessary for ordering, holding, canvassing, and promulgating the
12 returns of any election required for the issuance of general obligation bonds, or
13 limited tax secured obligations or for the voting of a property tax millage, which
14 resolutions or ordinances may include covenants for the security and payment
15 of any bonds or other evidence of debt so issued.

16 (6) For a period of thirty days from the date of publication of any
17 resolution or ordinance authorizing the issuance of any bonds, certificates of
18 indebtedness, notes, or other evidence of debt of the district, any interested
19 person may contest the legality of such resolution or ordinance and the validity
20 of such bonds, certificates of indebtedness, notes, or other evidence of debt
21 issued or proposed to be issued thereunder and the security of their payment,
22 after which time no one shall have any cause of action to contest the legality of
23 said resolution or ordinance or to draw in question the legality of said bonds,
24 certificates of indebtedness, notes, or other evidence of debt, the security
25 therefor, or the debts represented thereby for any cause whatever, and it shall
26 be conclusively presumed that every legal requirement has been complied with,
27 and no court shall have authority to inquire into such matters after the lapse of
28 thirty days.

29 (7) The issuance and sale of such bonds, certificates of indebtedness,
30 notes or other evidence of debt by the district shall be subject to approval by the

1 State Bond Commission.

2 (8) Such bonds, certificates of indebtedness, notes, or other evidence of
3 debt shall have all the qualities of negotiable instruments under the commercial
4 laws of the state of Louisiana.

5 §140.116. Competitive Bids

6 The district shall be subject to the provisions of Chapter 10 of Title 38
7 of the Louisiana Revised Statutes of 1950.

8 §140.117. Exempt from taxation

9 The property, revenues, and income of the district and the interest on
10 bonds and notes issued by a district shall be exempt from taxation levied by the
11 state or a political subdivision of the state.

12 §140.118. Audits of the district

13 The district shall, at the district's expense, annually report to the
14 legislative auditor in accordance with R.S. 24:513.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____