

2016 Regular Session

SENATE BILL NO. 31

BY SENATOR MILLS

PORTS/HARBORS/TERMINALS. Provides relative to the Greater Krotz Springs Port Commission. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 34:1452, 1453(A), (B), (C) and (E), 1454 and 1455 and to enact  
3 R.S. 34:1453(F), relative to the Greater Krotz Springs Port Commission; to provide  
4 for rights and powers of the commission; to provide for general obligation and  
5 revenue bonds; to provide for a prescriptive period for the sale of bonds; to authorize  
6 the commission to enter cooperative endeavor agreements; to provide relative to  
7 existing contracts and agreements; and to provide for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 34:1452, 1453(A), (B), (C) and (E), 1454 and 1455 are hereby  
11 amended and reenacted and R.S. 34:1453(F) is hereby enacted to read as follows:

12 §1452. Officers of the ~~board~~ **commission**; meetings

13 The commission shall elect from among its own members a president, a vice  
14 president, a secretary, and a treasurer, whose respective duties shall be prescribed by  
15 the commission. At the option of the commission the office of the secretary and  
16 treasurer may be held by one person. The commission shall meet in regular session  
17 once each month, and shall also meet in special session at the call of the president

1 of the commission, or on the written request of three members of the commission.

2 A majority of the members of the commission shall constitute a quorum and all  
3 actions or resolutions of the commission must be approved by the affirmative vote  
4 of not less than a majority of all members of the commission **in attendance**. The  
5 commission shall prescribe rules to govern its meetings and shall fix the place at  
6 which meetings shall be held.

7 §1453. Rights and powers of the ~~board~~ **commission**

8 A. The commission shall exercise the powers herein conferred upon it within  
9 the port area ~~consisting~~ **which for purposes of this Chapter consists** of the entire  
10 parish of St. Landry as ~~the boundaries and limits are presently fixed by law~~ **it exists**  
11 **from time to time**.

12 B. The commission may authorize a reasonable travel allowance for its  
13 members in the performance of their official duties, and it may employ such officers,  
14 agents, and employees as it may find necessary in the performance of its duties, and  
15 may prescribe the duties, powers, and compensation of such officers, agents, and  
16 employees. The commission may upon such terms as it may agree ~~upon~~, contract for  
17 legal, financial, engineering, and other professional services necessary or expedient  
18 in the conduct of its affairs, and it may, upon terms and conditions mutually  
19 agreeable, utilize the services of the ~~other~~ executive departments of the state. The  
20 commission is authorized to provide health insurance for its members, however no  
21 state funds shall be used to pay for such insurance.

22 C. The commission shall regulate the commerce and traffic within ~~such~~ **the**  
23 port area in such manner as may, in its judgment, be for the best interest of the state.  
24 It shall have charge of, and administer public wharves, docks, sheds, and landings  
25 and shall be empowered to construct or acquire and equip wharves and landings and  
26 other structures useful for the commerce of the port area and to provide mechanical  
27 facilities therefor; to erect sheds or other structures on such wharves and landings;  
28 to maintain proper depths of water at all such wharves and landings; to provide light,  
29 water, police protection and other services for its facilities as it may deem advisable;

1 to construct or acquire, maintain, and operate basins, locks, canals, warehouses, and  
2 elevators; to charge for the use of all facilities administered by it and for all services  
3 rendered by it, such fees, rates, tariffs, or other charges as it may establish; to  
4 establish harbor lines within the port area by agreement with the Corps of Engineers;  
5 and to construct, own, operate, and maintain terminal rail facilities and other  
6 common carrier rail facilities for the purpose of rendering rail transportation to and  
7 from the facilities to be erected, owned, and operated by the commission whether  
8 in both intrastate ~~and~~ or interstate commerce. The commission, in its discretion,  
9 may enter into cooperative endeavor agreements, intergovernmental  
10 agreements, contracts, leases, servitudes, charters, and other agreements with  
11 public or private entities or persons providing for the delegation of any or all  
12 of the operational rights, powers, and authority granted in this Chapter. The  
13 legislature may confer additional powers upon the commission, ~~not inconsistent with~~  
14 ~~the provisions hereof;~~ provided, however, that it shall not impair the commission  
15 shall not exercise any powers in a manner that impairs any contract lawfully  
16 entered into by the commission. ~~Title~~ Except as provided in this Section, title to  
17 all property land and improvements thereon acquired, constructed, maintained,  
18 or operated by the commission shall vest in the ~~state of Louisiana~~ commission. As  
19 a political subdivision of the state of Louisiana, the commission shall have all  
20 powers of ownership and rights of administration and alienation, including  
21 without limitation the right to lease, sell, encumber, or otherwise convey, or to  
22 grant or accept servitudes in land or any improvements thereon to or from third  
23 parties for any commercial, business, or port area purpose, including without  
24 limitation shipping, fleeting, processing, manufacturing, or financing through  
25 industrial inducement bonds over and upon the port area. The construction  
26 and operation of privately owned facilities within the port area is permitted,  
27 subject to the reasonable rules and regulations that may be adopted by the  
28 commission from time to time and are applicable to publicly and privately  
29 owned facilities.

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E. The commission shall have authority to make and enter into contracts, leases, servitudes, and other agreements with railroads, trucking companies, **pipeline companies, terminal developers and operators, and** barge **and fleeting** lines, and with any and all ~~companies~~ **entities and persons** interested in the transportation, storage, ~~and or~~ shipping of **hydrocarbons or other minerals**, goods ~~and other or~~ products, whether by rail, truck line, **pipeline**, barge line, ocean-going vessels, or otherwise for the use of **the land** facilities **or other property owned or** administered by the commission or any part or portion thereof, for a period of time not exceeding forty **ninety-nine** years. ~~No exclusive franchise, however, shall be granted to any carrier.~~

**F. The provisions of this Chapter shall not be construed to authorize the commission to operate as a public utility or to grant a franchise for service by a public utility that is regulated by the Louisiana Public Service Commission.**

§1454. Authority for issuance of **general obligation** bonds

**A.** The commission, with the approval of the State Bond Commission, is authorized to incur debt for its lawful purposes and to issue in its name, negotiable **general obligation** bonds or notes therefor, and to pledge, for the payment of the principal and interest of such negotiable bonds or notes, the revenues derived **by the commission** from the operation of properties and facilities **acquired, constructed,** maintained ~~and or~~ operated by ~~it~~ **the commission**, or received by the commission from other sources; provided, however, that the amount of such bonds and notes outstanding at any one time shall not exceed fifteen million dollars. Such bonds **or notes**, when authorized to be issued, shall constitute, first, a general obligation of the commission, and secondly, the full faith and credit of the parish of St. Landry and the state of Louisiana shall be and are hereby pledged **to secure such bonds or notes**. In addition ~~the~~ **to the** pledge of revenues to secure ~~said the~~ **the** bonds and notes, the commission may further secure their payment by a **granting one or more** conventional ~~mortgage~~ **mortgages** upon any or all of the properties constructed ~~or,~~

1           acquired, **maintained, or operated,** or to be constructed ~~and acquired by~~  
 2           ~~it,~~ **acquired, maintained, or operated, by it or upon its interest as lessor under**  
 3           **leases granted by the commission to third parties on property acquired,**  
 4           **constructed, maintained, or operated by the commission.** The commission is  
 5           further authorized to receive, by gift, grant, donation, or otherwise any sum of  
 6           money, aid, or assistance from the United States, the state of Louisiana, or any  
 7           political subdivision ~~thereof~~ **of the state,** and unless otherwise provided by the terms  
 8           of such gift, grant, or donation, ~~in its discretion,~~ to pledge all or any part of such  
 9           monies for the further securing of the payment of the principal and interest of its  
 10          bonds or notes.

11           **B.** There shall never be levied for and in the port area any ad valorem tax  
 12          upon and limited solely to the property in the port area.

13          §1455. Prescriptive period; sale of bonds

14           **A.** For a period of ~~sixty~~ **thirty** days from the date of the adoption of any  
 15          resolution of the commission authorizing the issuance of its bonds or notes, any  
 16          person interested may test the legality of ~~said~~ **the** resolution and the validity of ~~said~~  
 17          **the** bonds or notes issued or proposed to be issued thereunder, after which time no  
 18          one shall have any cause of action to contest the regularity, formality, or legality of  
 19          ~~said~~ **the** resolution or to draw in question the legality of ~~said~~ **the** bonds or notes or  
 20          the debt represented thereby for any cause whatever, and it shall be conclusively  
 21          presumed that every legal requirement has been complied with, ~~and no court shall~~  
 22          ~~have authority to inquire into such matters after the lapse of said sixty days.~~ **No**  
 23          **court shall have authority to inquire into such matters after the lapse of thirty**  
 24          **days.**

25           **B.** Any bonds issued in accordance with the provisions ~~hereof~~ **of this**  
 26          **Chapter** shall be sold **in the manner determined by the commission.** ~~to the highest~~  
 27          ~~bidder, at a public sale, for not less than par and accrued interest, after advertisement~~  
 28          ~~at least once a week, for not less than thirty days by the commission in the District,~~  
 29          ~~Chicago, Illinois, New York, New York, and such other places as the commission~~

1           ~~may determine, reserving to the commission the right to reject any and all bids, and~~  
 2           ~~the right to readvertise for new bids. If after advertisement as hereinabove provided,~~  
 3           ~~no bids are received, or if such bids as are received are considered in the discretion~~  
 4           ~~of the commission to be unsatisfactory, then in that event the commission may~~  
 5           ~~publicly negotiate for the sale of such bonds.~~

6           Section 2. All leases, servitudes and other agreements that the commission is a party  
 7           to on the effective date of this Act and are consistent with the provisions of this Act are  
 8           hereby ratified and confirmed.

9           Section 3. This Act shall become effective upon signature by the governor or, if not  
 10          signed by the governor, upon expiration of the time for bills to become law without signature  
 11          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 12          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 13          effective on the day following such approval.

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The original instrument was prepared by Michael Bell. The following digest,  
 which does not constitute a part of the legislative instrument, was prepared  
 by Alan Miller.

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DIGEST

SB 31 Engrossed

2016 Regular Session

Mills

Present law provides for the boundaries of the commission to consist of the entire parish of St. Landry as fixed by law in 1956.

Proposed law changes the boundaries to that of St. Landry Parish as it exists from time to time.

Present law authorizes the commission to exercise certain duties, powers and compensation of the members, officers, agents and employees.

Proposed law authorizes the commission to enter into cooperative endeavor agreements, intergovernmental agreements, contracts, leases, servitudes, charters and other agreements with public or private entities.

Present law authorizes the commission to enter into contracts and other agreements for a period of time not to exceed 40 years.

Proposed law extends the period of time not to exceed 99 years.

Present law authorizes the commission, with the approval of the State Bond Commission, to issue in its name bonds or notes.

Proposed law provides that present law and proposed law will not be construed to authorize the commission to operate as a public utility or to grant a franchise for service by a public utility that is regulated by the PSC.

Proposed law maintains present law and authorizes the commission, with the approval of the State Bond Commission, to issue general obligation bonds.

Proposed law changes the prescriptive period from 60 days to 30 days to challenge the validity of the bonds sale.

Proposed law provides that the bonds shall be sold in the manner determined by the commission.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 34:1452, 1453(A),(B),(C), and (E), 1454 and 1455; adds R.S. 34:1453(F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Makes technical changes.
2. Deletes additional economic development functions.
3. Provides that the commission cannot operate as a public utility or grant a franchise for service by a regulated public utility.
4. Adds governor's signature effective date.