Regular Session, 2008

ACT No. 699

ENROLLED

SENATE BILL NO. 780

BY SENATORS CROWE, ALARIO, BROOME, CASSIDY, DONAHUE, DORSEY, DUPLESSIS, DUPRE, ERDEY, B. GAUTREAUX, N. GAUTREAUX, HEBERT, LAFLEUR, LONG, MOUNT, MURRAY, NEVERS, QUINN, RISER, SHEPHERD, SMITH, THOMPSON, WALSWORTH AND SHAW AND REPRESENTATIVES ABRAMSON, ANDERS, ARNOLD, BOBBY BADON, BALDONE, BARRAS, BARROW, BILLIOT, HENRY BURNS, BURRELL, CARMODY, CONNICK, DANAHAY, EDWARDS, ELLINGTON, FRANKLIN, GISCLAIR, ELBERT GUILLORY, HAZEL, HENDERSON, HINES, HOWARD, GIROD JACKSON, JOHNSON, ROSALIND JONES, SAM JONES, LABRUZZO, LAFONTA, LEBAS, LEGER, LIGI, LOPINTO, LORUSSO, MORRELL, NORTON, PEARSON, PETERSON, RICHMOND, ROBIDEAUX, SCHRODER, SMILEY, JANE SMITH, PATRICIA SMITH, TEMPLET, TRAHAN, TUCKER, WADDELL, WILLIAMS AND WOOTON

AN ACT

To enact Chapter 49 of Title 34 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 34:3491 through 3506, relative to the Louisiana International Deep Water Gulf Transfer Terminal Authority; to create the authority and provide for a board of commissioners to govern the authority; to provide for the authority's powers, duties, and responsibilities; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 49 of Title 34 of the Louisiana Revised Statutes of 1950, comprised of R.S. 34:3491 through 3506, are hereby enacted to read as follows:

CHAPTER 49. LOUISIANA INTERNATIONAL DEEP WATER GULF TRANSFER TERMINAL AUTHORITY

§3491. Object; purpose of Chapter

It is the object and purpose of this Chapter to provide for the creation of a political subdivision of the state of Louisiana, possessing full corporate powers, known as the Louisiana International Deep Water Gulf Transfer Terminal Authority, hereinafter referred to as the "authority," to promote, plan, finance, develop, construct, control, license, regulate, supervise, operate, manage, maintain, and modify deepwater terminal facilities to be constructed within the jurisdiction of said authority after July 1, 2008, in order to position Louisiana as an international hub for cargo ships, including super-sized cargo

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ships.

§3492. Definitions

For the purposes of this Chapter, unless the context clearly otherwise requires, the following definitions shall apply and shall be equally applicable to both the singular and plural forms of any of the defined terms:

(1) "Authority development program" means a full and complete plan for the development, construction, and operation of deep draft container vessel and intermodal terminal facilities not in existence on July 1, 2008, including but not limited to research and experimentation; promotion; financing; all phases of technical development and refinement; construction; operation and maintenance, including renovation, retirement, and reconstruction; regulation of any aspect of such a plan; and any other action the authority deems necessary to the fulfillment of such a plan.

(2) "Board" means the board of commissioners of the authority or any successor thereto.

(3) "Coastal waters of Louisiana" means those waters extending three nautical miles from the coastline, or beyond to the extent of the jurisdiction of the state of Louisiana.

(4) "Environmental protection plan" means a written document, prepared in conformity with this Chapter and applicable state, federal, and local laws and regulations.

(5) "Licensee" means any person licensed by the authority to construct, maintain, and operate a terminal facility constructed or acquired after July 1, 2008.

(6) "Offshore terminal authority" means the authority established pursuant to Chapter 35 of Title 34 of the Louisiana Revised Statutes of 1950, R.S. 34:3101 et seq., and the deepwater port or offshore terminal facility and related facilities and operations of such authority.

(7) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any

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character, other than the authority.

(8) "Project costs" means all costs necessary for the planning, development, acquisition, construction, extension, or improvement of a revenue bond project, including the environmental plan, site acquisition and preparation and installation of property and equipment, utilities, architectural, engineering, supervising, accounting, inspection, legal and financing fees and costs, preparation of feasibility studies and reports, interest on revenue bonds and notes during construction or manufacture and for a reasonable period thereafter, establishment of reserves to secure the bonds and notes, and all other expenditures incidental and necessary or convenient therefore.

(9) "Public funds" means any funds obtained from legislative appropriation or any form of state or local taxation.

(10) "Revenue bond project" or "revenue bond projects" means any one or more of the facilities authorized to be financed by the issuance of revenue bonds pursuant to the provisions of R.S. 34:3112.1.

(11) "Revenue bonds" means any bonds or notes issued pursuant to R.S. 34:3112.1.

(12) "Revenues" include rates, fees, rentals, sales, payments, charges, grants, proceeds, and receipts from loan and financing agreements and other receipts and income derived by or for the account of the authority from or in connection with any revenue bond project or arising from such project.

(13) "Seven deepwater ports" mean the following:

(a) The Board of Commissioners of the Port of New Orleans.

(b) The Greater Baton Rouge Port Commission.

(c) The Lake Charles Port, Harbor and Terminal District.

(d) The Port of South Louisiana.

(e) Plaquemines Port, Harbor & Terminal District.

(f) St. Bernard Port, Harbor & Terminal District.

(g) The West Cameron Port Commission.

(14) "Transfer Terminal facilities" or "facilities" means a structure, a

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series of structures, or a facility constructed after July 1, 2008, developed pursuant to the authority development program on the lower end of the east bank of Southwest Pass in Plaquemines Parish on state owned property and designed to accommodate deep draft container vessels and their cargoes, including all intermodal structures, property, and equipment used for transportation, and facilities directly related thereto and necessary or useful to the operation thereof, whether landward, onshore, or seaward of the main structures or facilities themselves, including any facility which is part of a gulf transfer container terminal, as defined herein.

§3493. Jurisdiction; domicile

A.(1) The Louisiana International Deep Water Gulf Transfer Terminal Authority shall have only that exclusive jurisdiction as provided herein over a structure, a series of structures, or a facility constructed after July 1, 2008, at the lower end of the east bank at Southwest Pass in Plaquemines Parish on state owned property, beginning at latitude 28.929 degrees; longitude 89.405 degrees then east to latitude 28.924 degrees; longitude 89.399 then south to latitude 28.916 degrees; longitude 89.406 degrees then west to latitude 28.922 degrees; longitude 89.413 degrees and then back to point of beginning, and designed to accommodate deep draft container vessels and their cargoes, including all intermodal structures, property, and equipment used for transportation, and facilities directly related thereto and necessary or useful to the operation thereof, whether landward, onshore, or seaward of the main structures or facilities themselves, including any facility which is part of a gulf transfer container terminal.

(2) The jurisdiction of the authority shall not include or extend to the construction of authority development program facilities, taking control, regulation, licensing or operation of existing, proposed or future public or private facilities, within the jurisdiction of existing port authorities, port, harbor and terminal districts, or the offshore terminal authority, except by mutual written agreement of the appropriate existing port authority, port,

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harbor and terminal district, or offshore terminal authority.

(3) Nothing contained in this Chapter shall be construed to affect Louisiana's claim to its tidelands or the location of Louisiana's coastline as interpreted by the state of Louisiana.

(4) Nothing in this Chapter shall be construed to limit, restrict, or prevent the ability of any other port authority, port, harbor and terminal district, or offshore terminal authority, to construct, maintain, operate, expand, or create any facility within its jurisdiction.

B. The authority shall have the right to acquire by permit, lease, sublease, license, grant, purchase, or otherwise, except mineral leases as provided for in R.S. 34:3498(E), water bottoms, wetlands, and lands, inside and outside of the territorial limits of the state of Louisiana, for the construction, operation, and maintenance of the facilities functionally required, related, necessary, or useful to the authority development program. However, when such properties or facilities are located within the jurisdiction of existing port commissions or port, harbor and terminal districts, or the offshore terminal authority, the authority shall enter into a cooperative endeavor agreement with the local governing authority, the appropriate existing port commission, port, harbor and terminal district, or offshore terminal authority.

C. The authority shall have exclusive power to own, operate, license, or otherwise regulate all terminal facilities within its jurisdiction constructed after July 1, 2008, and property and equipment related to those facilities.

D. The domicile of the authority shall be in the parish of Plaquemines.

§3494. Board of commissioners; qualifications; term; vacancies; compensation

A. The authority shall be governed by a board of twelve commissioners, consisting of the secretary of the Department of Economic Development and the secretary of the Department of Transportation and Development, the chairmen of the House and Senate committees on transportation, highways, and public works or their designees and eight commissioners appointed by the governor to be chosen on the basis of their demonstrated experience in maritime or business

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leadership, or both, and their stature and ability to act effectively for the best interests of Louisiana. Such commissioners shall not be appointed or elected commissioners or board members of any other Louisiana port.

B. Commissioners shall be chosen as follows:

(1) One member shall be selected from a list of three nominees submitted by the Ports Association of Louisiana.

(2) One member shall be selected from a list of three nominees submitted by the Louisiana Association of Business and Industry.

(3) One member shall be selected from a list of three nominees submitted by the New Orleans Steamship Association.

(4) One member shall be selected from a list of three nominees submitted by the Louisiana River Pilots Association.

(5) One member at large.

(6) One member appointed by the American Federation of Labor-Congress of Industrial Organizations.

(7) One member shall be selected from a list of three nominees submitted by the president of the Louisiana State Senate.

(8) One member shall be selected from a list of three nominees submitted by the speaker of the Louisiana House of Representatives.

(9) The commissioners appointed shall be appointed for terms of seven years. A member shall serve until his successor is appointed unless removed as provided for in Paragraph (C)(1) of this Section. A commissioner may be reappointed, but no commissioner shall serve more than two consecutive terms.

C.(1) Each appointment by the governor shall be submitted to the Senate for confirmation and may be removed by the governor with cause at his discretion.

(2) All vacancies shall be filled in the same manner and the appointee shall have the proper qualifications.

D. The members of the board of commissioners shall serve without compensation but shall be reimbursed for travel expenses incurred in attending

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meetings at rates and standards as promulgated by the division of administration.

§3495. Duties of board; officers; rules; meetings; quorum

A. The board of commissioners shall be the governing body of the authority with full power to promulgate rules and regulations for the maintenance and operation of said authority. Prior to the adoption of any rule or regulation for the maintenance and operation of said authority, such rule or regulation shall be subject to the approval of the House and Senate committees on transportation, highways and public works.

B. The board of commissioners shall formulate general policy. It shall decide upon all matters relating to the authority development program. It shall adopt an annual operating and capital budget, subject to the approval of the Joint Legislative Committee on the Budget.

C. The commissioners shall elect a president from among themselves to serve for a term of two years.

D. The executive director, as chosen by the commissioners, shall be the secretary of the board.

E. The board of commissioners shall prescribe its own rules, which shall be adopted and promulgated.

F. The board of commissioners shall meet at least once every ninety days, or upon the written request of three members, or upon the written request of the president. The board may, upon the affirmative vote of a majority of its members, extend the ninety-day time interval between regular meetings.

G. All matters to be acted upon by the board of commissioners shall require the affirmative vote of a majority of the board, with the exception that the affirmative vote of not less than ten commissioners shall be required to select the executive director.

§3496. Annual reports; budget unit; funding limitation

A. The board of commissioners shall make an annual report to the governor, the House and Senate committees on transportation, highways and

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public works, and the Joint Legislative Committee on the Budget.

B. The authority shall comply with the Louisiana Local Government Budget Act.

C. Notwithstanding any other law to the contrary, no construction or development project of the authority, or related to the authority, shall be eligible for inclusion in, and the authority shall receive no funds from, the Port Construction and Development Priority Program provided for in Chapter 47 of this Title, R.S. 34:3451 et seq.

D. The board of commissioners shall annually submit the budget of the authority for review to the Joint Legislative Committee on the Budget.

§3497. Executive director; selection; duties; employees; compensation

A. The board of commissioners shall select an executive director who shall exercise control over all executive functions and the general operation of the authority. The executive director may employ on a contract basis such other agents, employees, and professional employees, permanent and temporary, as he may require and shall determine their qualifications, duties, and compensation. All employees of the authority shall be responsible to the executive director who shall organize the personnel employed by the authority in the most efficient manner to accomplish the purpose of the authority as provided in this Chapter and by regulations established by the authority's board.

B. The executive director, in addition to his usual functions, shall be secretary to the board of commissioners. The board of commissioners shall fix the compensation of the executive director.

§3498. Acquisition of sites; lease of state-owned lands and water bottoms

A. To enable the authority to perform the work herein provided, the state of Louisiana, acting by and through the commissioner of administration as register of state lands, is hereby authorized to grant to the authority a lease on state-owned lands and water bottoms which are requested by the authority as sites for terminal facilities if approved by the House and Senate committees

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on transportation, highways, and public works. The mineral rights on any and all state lands shall be reserved to the state of Louisiana.

B. The register of state lands shall lease the selected tracts to the authority for one dollar per acre per annum.

C. All such leases shall be for a term of not more than ninety-nine years, but the legislature may reevaluate the rental payments upward or downward to reflect changing economic conditions.

D. All proceeds arising from the transfer of such leases of state-owned lands and water bottoms shall be paid by the authority to the state treasurer and shall become part of the general fund of the state of Louisiana.

E. Nothing in this Chapter is intended to authorize the authority to lease state-owned lands and water bottoms for the exploration, development and production of oil, gas, sulphur, or other minerals, or for the cultivation or production of marine resources or detract from the authority of the State Mineral Board and Louisiana Wildlife and Fisheries Commission to lease for such purposes.

§3499. Powers

A. The authority shall be empowered to do any and all things necessary or proper to carry out the purposes of this Chapter, including but not limited to the following:

(1) To make such investigations and conduct such investigatory and adjudicatory hearings, by itself or through its executive director, or any person appointed by the authority for that purpose, to develop such facts as may be necessary to assist in assuring compliance with the purposes of this Chapter and the rules, regulations, and orders of the authority.

(2) To enter, at all reasonable times, in or upon any private or public property for the purpose of inspecting or investigating conditions in order to ascertain the state of compliance with this Chapter and the rules, regulations, and orders of the authority.

(3) To inspect, at reasonable times, relevant records, files, papers,

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processes, controls, operations, and facilities for the purpose of ascertaining the state of compliance with this Chapter and the rules, regulations, and orders of the authority.

(4) To take such actions, promulgate such rules and regulations, subject to the prior approval of the House and Senate committees on transportation, highways and public works and issue such orders, as necessary or appropriate to carry out the provisions of this Chapter.

(5) To institute in courts of competent jurisdiction legal proceedings to compel compliance with any order entered by the authority, or with this Chapter or the authority's rules and regulations.

(6) To issue licenses, certificates, and permits for the construction and maintenance of terminal facilities or use of services or terminal facilities subject to the authority's jurisdiction, pursuant to rules and regulations promulgated by the authority.

(7) To transfer, pursuant to rules and regulations promulgated by the authority, rights of the authority under any license, certificate, permit, or other authorization granted to the authority.

(8) To fix reasonable rates, fares, tolls, or charges for the services and terminal facilities within the authority's jurisdiction.

(9) To employ such engineers, accountants, attorneys, other professionals, employees, and agents as may be necessary and advisable, and to fix their compensation on a contract or other appropriate basis. However, any legislator or any legal entity in which he has an interest is hereby prohibited from doing business with the authority.

B.(1) To assert Louisiana's interest in any offshore terminal facility development after July 1, 2008, in proximity to the Louisiana coast or in any onshore facility, the authority is empowered to negotiate with and enter into contracts, compacts, or other agreements with agencies, bureaus, or other divisions of the federal government or other states of the United States concerning the authority development program, including jurisdictional aspects

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of the location of any terminal facilities, sharing of revenues derived from the operation of the offshore terminal facilities constructed or acquired after July 1, 2008, and promulgation and enforcement of regulations governing authority operations.

(2) The authority shall enter into contracts or agreements with the federal government to provide smart bomb detection for all containers entering the jurisdiction of the authority.

C. In addition to all other powers granted to the authority, the authority is hereby granted the following powers and duties:

(1) To own, construct, operate, maintain, and lease docks, wharves, slip docking facilities, storage facilities, housing and food facilities, heliports, slips, basins, connecting lines of railroads and vessels and other transportation devices and equipment, and works of public improvement necessary or useful for the authority development program.

(2) To dredge and maintain shipways, channels, slips, basins, and turning basins.

(3) To establish, operate, and maintain navigable waterway systems in cooperation with the federal government, the state of Louisiana, and its various agencies, subdivisions, and public bodies.

(4) To collect tolls and fees for the use of terminal facilities.

(5) To borrow funds for the business of the authority and to use the proceeds of any lease or rental as collateral or as a pledge to secure any indebtedness, all subject to the specific approval of the State Bond Commission.

(6) To mortgage properties constructed or acquired by the authority and to mortgage, pledge, and assign any or all right, title, and interest of the authority in any lease, sale, loan, or financing agreement, and the revenues and other advantages arising therefrom.

(7) To exercise all powers afforded port commissions and political subdivisions by the laws of the state.

(8) To enter into lease, sale, loan, and financing agreements, including

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binding letters of intent therefor, with licensees pursuant to which licensees agree to acquire, construct, operate, and maintain terminal facilities or evidence their binding intent to do so; to use the proceeds of revenue bonds to pay or reimburse licensees for project costs, including those for which licensees have expended their own funds; and to make payments through fiduciaries to third parties for obligations which licensees have incurred for project costs.

(9) In addition to existing constitutional and statutory authority to enter into cooperative endeavor agreements, the authority is hereby authorized to enter into cooperative endeavor agreements with the state and its political subdivisions with respect to the receipt, pledge, dedication and use of public funds with respect to the exercise of any object, purpose, or function of the authority.

D. The authority is hereby empowered to take all necessary steps to protect Louisiana's unique coastal environment from any short-term or long-term damage or harm which might occur from any aspect of the authority development program.

E. The authority may contract with any agency, public or private, to provide for public utilities on such terms as are agreed upon by the authority and the respective utilities for the financing, construction, and extension of sewerage, water, drainage, electricity, gas, and other necessary public utilities in and through said development.

F. The authority may lease or sublease lands leased from the state of Louisiana and is authorized to negotiate and enter into leases, subleases, contracts, or agreements with any person in order to facilitate the acquisition, construction, or operation of terminal facilities constructed or acquired after July 1, 2008, for unloading, temporarily storing, and transporting after unloading, containerized cargo in accordance with a license or licenses granted by the authority. However, the provisions of R.S. 33:4715.1, Chapter 10 of Title 41 of the Louisiana Revised Statutes of 1950, and R.S. 38:2211 et seq., shall not apply to this Subsection.

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G. The authority shall have exclusive and plenary power to issue licenses, certificates, and permits, and otherwise regulate all phases of the construction and operation by any person of terminal facilities within the jurisdiction of the authority. Nothing in this Chapter shall be construed to relieve, exempt, or immunize any person, including the authority, from any environmental or safety requirement or regulation of a local governmental subdivision.

§3500. Protection of deepwater ports and pre-existing offshore terminals

A. To prevent impairment of the bonds of the seven deepwater ports as defined in Article VI, Section 43 of the Constitution of Louisiana, other non-deepwater ports, harbors, and related authorities, and the deepwater terminal facility of the offshore terminal authority, and to recognize the existing authority of and functions performed by the established ports and harbors of Louisiana, it is hereby recognized that the function, power and authority of the various existing port authorities established pursuant to Article 14, Section 31 of the Louisiana Constitution of 1921, and Article VI, Section 43 of the Constitution of Louisiana, the offshore terminal authority, and other non-deepwater ports, harbors, and related authorities established by specific constitutional provision or by state law are not to be diminished by the jurisdiction and powers exercised by the authority except as provided in this Chapter.

B. The authority may enter into intergovernmental contract agreements with existing port authorities, individually, with the offshore terminal authority, or with any other parish, city, municipality, or subdivision of the state, and may engage jointly in the exercise of any power or the making of any improvements which each of the participating authorities may exercise or undertake individually under any provision of general or special law.

§3501. Purchases

The authority may purchase machinery and equipment related to the operation of deep draft container vessels and intermodal terminal facilities, including but not limited to container cranes. The provisions of Part II of

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Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2211 et seq., shall not be applicable to such purchases made with nonstate funds.

§3502. Bonds and other debt instruments; procedure for issuance

A. The authority is authorized to incur debt and issue bonds and other debt instruments, in accordance with the Constitution of Louisiana and all applicable laws of the state of Louisiana.

B. As an additional grant of authority, the authority is authorized, with the approval of the State Bond Commission, to issue negotiable bonds or other debt instruments for any purpose within its delegated authority, and to pledge for the payment of the principal and interest of such negotiable bonds and debt instruments the income and revenues derived or to be derived from the properties and facilities maintained and operated by it or received by the authority pursuant to cooperative endeavor agreements from other sources.

C. Such negotiable bonds and debt instruments may be further secured by a conventional mortgage upon any or all of the property constructed or acquired, or to be constructed or acquired by it.

D. To further secure such negotiable bonds and debt instruments the authority may apply in whole or part any money received by gift, grant, donation, or otherwise from the United States, the state of Louisiana, or any political subdivision thereof, unless otherwise provided by terms of the gift, devise, donation, or similar grant.

E.(1) Such bonds or debt instruments shall be authorized by a resolution of the board of commissioners of the authority and shall be of such series, bear such date or dates, mature at such time or times not exceeding ninety-nine years from their respective dates, bear interest at such rate or rates per annum, payable at such time or times, be in such denominations, be in such form, either coupon or fully registered without coupons, carrying such registration and exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be entitled to such priority on the revenues of the authority as such resolution or resolutions may

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provide.

(2) The bonds or debt instruments shall be signed by such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signatures of such officer or officers of the authority as it shall designate. Any such bonds or debt instruments may be issued and delivered, notwithstanding that one or more of the officers signing such bonds or debt instruments or the officers whose facsimile signature or signatures may be upon the coupons or other documents shall have ceased to be such officer or officers at the time such bonds or debt instruments shall actually have been delivered.

(3) The bonds or debt instruments shall be sold for not less than par and accrued interest to the highest bidder at a public sale after advertisement by the authority at least seven days in advance of the date of sale, in newspapers or financial journals published at such places as the authority may determine, reserving to the authority the right to reject any and all bids and to readvertise for bids. If, after advertisement, no bids are received, or if such bids as are received are considered in the discretion of the board of commissioners of the authority to be unsatisfactory, then and in that event the board of commissioners may publicly negotiate for the sale of such bonds or debt instruments without further advertisement.

(4) No proceedings in respect to the issuance of any such bonds or debt instruments shall be necessary except such as are contemplated by this Section.

F. For a period of thirty days from the date of publication of the resolution authorizing the issuance of bonds or debt instruments hereunder, any persons in interest shall have the right to contest the legality of the resolution and the legality of the bond or debt instrument issue for any cause after which time no one shall have any cause or right of action to contest the legality of said resolution or of the bonds or debt instruments authorized thereby for any cause whatsoever. If no suit, action, or proceeding is begun contesting the validity of the bond or debt instrument issue within the thirty days herein prescribed, the

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authority to issue the bonds or debt instruments and to provide for the payment thereof, and the legality thereof and all of the provisions of the resolution authorizing the issuance of the bonds or debt instruments shall be conclusively presumed, and no court shall have authority to inquire into such matters.

G. Such bonds or debt instruments shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commercial Code of Louisiana, and shall be exempt from income and all other taxation of the state of Louisiana.

H. No bonds or debt instruments as herein described shall be authorized, issued, or sold except in accordance with specific authorizations hereafter granted by the legislature for each issue.

§3503. Additional authorization to issue revenue bonds and notes

A.(1) Power to issue bonds and notes. In addition to the power and authority granted to the authority under this Chapter and by other constitutional and statutory authority to the authority as a political subdivision of the state, including but not limited to issuing certificates of indebtedness under the provisions of R.S. 33:2921, et seq.; certificates of indebtedness in the manner provided by R.S. 39:742.2; revenue bonds in the manner provided by R.S. 39:1011, et seq.; revenue bonds under the provisions of R.S. 39:1430; revenue bonds in the manner set forth in R.S. 34:3112, et seq.; revenue bonds under R.S. 39:991.2, et seq.; revenue bonds under R.S. 34:340.1, et seq.; and, in order to carry out the purposes of this Chapter and promote industrial development in the state, the authority is authorized, with approval of the State Bond Commission, to issue its revenue bonds and notes, herein collectively called revenue bonds, as hereinafter provided, to finance or assist in the financing of the development, acquisition, or construction of offshore or onshore terminal facilities, which may be licensed by the secretary of transportation of the United States of America pursuant to the Deepwater Port Act of 1974, as the same may be amended or supplemented from time to time, and to be emplaced within the coastal waters of Louisiana or seaward thereof or land based within

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the jurisdiction of the authority and all directly related storage facilities and all functionally related and subordinate facilities and equipment therefor located offshore or onshore. The revenue bonds shall be authorized, secured, and have the details and characteristics set out hereunder.

(2) Authorization of revenue bonds. The authority is hereby authorized to issue its negotiable revenue bonds in one or more series in such principal amount as shall be necessary to provide sufficient monies for payment of project costs of one or more revenue bond projects. The authority shall have power, from time to time, and subject to agreements with the holders of its revenue bonds and with the approval of the State Bond Commission, to issue renewal notes; to issue revenue bonds to pay notes; and, whenever the authority deems it expedient, to refund any revenue bonds by the issuance of new revenue bonds, whether the revenue bonds to be refunded have or have not matured, and may issue revenue bonds partly to refund revenue bonds then outstanding and partly for any other purpose under this Chapter. Refunding revenue bonds may be exchanged for outstanding revenue bonds or sold and the proceeds applied to or deposited in escrow for the purchase, redemption, or payment of revenue bonds and interest and premiums thereon and for any other purpose specified in the resolution or trust agreement authorizing or securing such bonds.

(3) Bond resolution; trust agreement; publication; peremption. The authority shall authorize revenue bonds by one or more resolutions executed by the secretary of the Department of Transportation and Development and approved by the State Bond Commission. Any revenue bonds issued pursuant to this Section also may be secured by a trust agreement by and between the authority and one or more corporate trustees or fiscal agents, which may be any trust company or bank having the powers of a trust company within or without this state. Any resolution authorizing the issuance of revenue bonds shall be published one time in the official journal of the state; however, it shall not be necessary to publish any exhibits to such resolution if the same are available for public inspection and such fact is stated in the publication. For thirty days after

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the date of publication, any person in interest may contest the legality of the resolution, any provision of the revenue bonds to be issued pursuant to it, the provisions therein made for the security and payment of the revenue bonds, and the validity of all other provisions and proceedings relating to the authorization and issuance of such bonds. After that time, no person may contest the regularity, formality, legality, or effectiveness of the resolution, any provisions of the revenue bonds to be issued pursuant to it, the provisions for the security and payment of the revenue bonds, and the validity of all other provisions and proceedings relating to their authorization and issuance, for any cause whatsoever. Thereafter, it shall be conclusively presumed that the revenue bonds are legal and that every legal requirement for the issuance of the revenue bonds has been complied with. No court shall have authority to inquire into any of these matters after the thirty days.

(4) Bond instrument; contents. The resolution or trust agreement shall authorize the development, acquisition, construction, extension, improvement, maintenance, or operation of the revenue bond project or projects to be financed and, in addition, may contain provisions which shall be a part of the contract with the holders of such issue of revenue bonds, as to:

(a) Pledging all or any part of revenues received or to be received, and leases or agreements to secure the payment of such issue of revenue bonds.

(b) Rates, fees, rentals, or other charges to be established, maintained, and collected, and the use and disposition of revenues, gifts, and funds received or to be received.

(c) The setting aside of reserves or retirement funds and the regulation and disposition thereof.

(d) The custody, collection, securing, investment, and payment of any monies held in trust or otherwise for the payment of revenue bonds or in any way to secure the payment of revenue bonds, including the establishment and maintenance of construction, revenue, reserve, or other funds as trust funds.

(e) Limitations or restrictions on the purposes to which the proceeds of

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sale of any revenue bonds then or thereafter to be issued may be applied.

(f) Limitations or restrictions on the issuance of additional revenue bonds; the terms upon which additional revenue bonds may be issued and secured; and the refunding of outstanding or other revenue bonds.

(g) Vesting in one or more trustees or fiscal agents such property, rights, powers, and duties in trust as the authority may determine.

(h) The acquisition and disposition of property for revenue bond projects.

(i) The rights and remedies available to the bondholders in the event of default.

(j) Provisions for insurance and for accounting reports and the inspection and audit thereof.

(k) The replacement of mutilated, destroyed, stolen, or lost revenue bonds.

(l) Any other matters of like or different character which in any way affect the security or protection of the revenue bonds.

(5) Lien and certain details of revenue bonds.

(a) All revenue bonds issued pursuant to a resolution or trust agreement hereunder shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in the resolution or trust agreement, without priority by reason of number, or of dates of bonds, execution, or delivery, except that the authority may provide in the resolution or trust agreement that revenue bonds issued pursuant thereto shall, to the extent and in the manner prescribed in such resolution or trust agreement, be subordinate and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other revenue bonds. Any pledge made by the authority pursuant to this Paragraph shall be valid and binding from the time when the pledge is made. The revenues, securities, and other monies so pledged and then held or thereafter received by the authority or any fiduciary shall immediately be subject to the lien of such pledge without any physical delivery thereof or

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further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, whether or not such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the official minutes of the authority and of the State Bond Commission.

(b) The revenue bonds shall be of such series, bear such date or dates, be serial or term bonds, mature at such time or times, bear interest at such rate or rates payable on such date or dates, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration and exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the revenues of the authority as the resolution or trust agreement authorizing or securing such bonds may provide.

(6) Sale of revenue bonds. The revenue bonds shall be sold by the authority with the approval of the State Bond Commission in such manner and at such prices, at public or private sale, as the authority may determine. If the authority determines to sell the bonds at public sale, notice of such sale upon sealed proposals shall be published at least once not less than seven days prior to the date of such sale in a publication carrying municipal bond notices and devoted primarily to financial news or to the subject of state and municipal bonds, published in the city of New York, New York, and in a newspaper of general circulation published in either the city of New Orleans or the city of Baton Rouge, Louisiana.

(7) Execution of revenue bonds. The revenue bonds and coupons attached thereto shall be executed in the name of the authority by the manual or facsimile signatures of such official or officials as may be designated in the resolution or trust agreement authorizing their issuance. If any officer whose manual or facsimile signature appears on any revenue bond or coupon ceases to be such officer before the delivery of such bonds, such signature nevertheless

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shall be valid and sufficient for all purposes as if he had remained in office until such delivery. The resolution or trust agreement may provide for authentication of the bonds by the trustee or fiscal agent thereunder.

(8) Temporary revenue bonds. Pending the preparation of definitive revenue bonds, the authority may issue interim receipts or temporary revenue bonds, with or without coupons, exchangeable for definitive revenue bonds when such bonds have been executed and are available for delivery.

(9) Nonliability of officers. No member of the board or of the authority and no officer or member of the State Bond Commission or any person executing such revenue bonds shall be liable personally on such bonds.

(10) Purchase of revenue bonds. The authority shall have power to purchase its revenue bonds out of any funds available therefor under the resolution or trust agreement authorizing or securing such bonds. It may hold, cancel, or resell such bonds, subject to and in accordance with agreements with holders of its revenue bonds.

(11) Negotiability of revenue bonds. All revenue bonds and interest coupons appertaining thereto issued pursuant to this Section shall be and are hereby made negotiable instruments within the meaning of and for all of the purposes of the Uniform Commercial Code of Louisiana, subject only to the provisions of the revenue bonds for registration.

(12) Tax exemption and eligibility for investment. All revenue bonds and the income therefrom shall be exempt from all taxation by this state or any political subdivision thereof, except estate or gift taxes and taxes on transfers. The revenue bonds shall be legal and authorized investments for banks, savings banks, insurance companies, homestead and building and loan associations, trustees, and other fiduciaries and may be used for deposit with any officer, board, municipality, or other political subdivision of the state of Louisiana, in any case where, by present or future laws, deposit or security is required.

(13) Remedies of bondholders. The holders of any revenue bonds issued hereunder shall have such rights and remedies as may be provided in the

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resolution or trust agreement authorizing the issuance of the revenue bonds, including but not by way of limitation, acceleration of payment, appointment of a trustee for bondholders, appointment of a receiver for the revenue bond project financed with the proceeds of the revenue bonds or the revenues from such project, and any other available civil action to compel compliance with the terms and provisions of the revenue bonds and the resolution or trust agreement.

(14) Limited liability of authority and state. The revenue bonds shall be limited obligations of the authority. The principal of and interest on the revenue bonds shall not be payable from the general funds of the authority, nor shall they constitute a pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues except the revenues, agreements, and funds pledged under the resolution or trust agreement authorizing such bonds. Neither the credit nor the taxing power of the state shall be pledged for the payment of such principal or interest, and no holder of revenue bonds shall have the right to compel the exercise of the taxing power by the state or the forfeiture of its property in connection with any default thereon. Every revenue bond shall recite in substance that the principal of and interest on such bond is payable solely from the revenues pledged to its payment and that the authority is not obligated to pay such principal or interest except from such revenues. The face of each interest coupon shall bear a statement to the effect that such coupon is payable solely from certain revenues as set forth in the bond to which such coupon pertains. The revenue bonds issued under the provisions of this Section shall not constitute a debt of this state, and the state shall not be liable thereon.

(15) Proceeds and revenues to be deposited in separate funds. Subject to agreements with the holders of revenue bonds, all proceeds of revenue bonds and all revenue pledged under a resolution or trust agreement authorizing or securing such bonds shall be set aside as received and shall be deposited and held in trust by a trustee appointed by the authority in a fund or funds separate

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and apart from all other funds of the authority. Subject to the resolution or trust agreement, the trustee shall hold the same for the benefit of the holders of the bonds for the application and disposition thereof solely to the respective uses and purposes provided in such resolution or trust agreement.

B. Agreement required prior to sale of revenue bonds. Prior to the sale of revenue bonds under this Section, the authority shall either enter into an agreement with a licensee to lease, sublease, or sell the project or projects to such licensee or enter into a loan or other financing agreement with the licensee providing that the licensee will construct, operate, and maintain the revenue bond project or projects. Any such agreement shall set forth the rights, duties, and obligations of the parties thereto; provide for the completion of the revenue bond project or projects from bond proceeds or other sources; provide that neither the state nor the authority shall have any liability or responsibility whatsoever for any loss or damage arising out of the acquisition, construction, operation, and maintenance of such project or projects; and also shall provide for the payment to the authority of such rentals, installment payments, or other monies as will be sufficient to pay the principal of and interest on the revenue bonds issued to finance the revenue bond project or projects and build up and maintain any reserves deemed advisable in connection therewith. This agreement shall be made upon such other terms and conditions and for such time as may be determined by the authority and may contain provisions authorizing the sale, resale, lease, sublease, or purchase of the entire revenue bond project, or any portion thereof, for such consideration and upon such terms and conditions as the authority may determine.

C. Construction of Section. The powers and rights conferred by this Section shall be in addition and supplemental to the powers and rights conferred by any other general or special law. This Section does and shall be construed to provide a complete and additional method for the doing of the things authorized thereby. The State Bond Commission is vested with and is hereby granted the right, power, and authority to do, perform, and exercise for

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and on behalf of the authority and its board of commissioners, all acts and things required to be done and performed in connection with the authorization and issuance of revenue bonds under this Section.

D. Prohibition against pledge of full faith and credit of state. Notwithstanding any other provisions of this Section, the state of Louisiana shall not pledge its full faith and credit to the payment of any obligations under the terms of any lease entered into by it under this Section.

§3504. Issuance and transfer of licenses

A. No person shall construct or operate, or cause to be constructed or operated, terminal facilities after July 1, 2008, within the jurisdiction of the authority without first obtaining a license, the transfer of any license granted to the authority, or other appropriate authorization from the authority.

B. A license shall be issued, any license granted to the authority shall be transferred, or other appropriate authorization granted, only if the authority finds that the applicant or transferee is qualified, and that the facilities or operations conform to the provisions of this Chapter and the rules and regulations of the authority and will be consistent with the public interest declared in this Chapter. Any license so issued or transferred or other appropriate authorization shall be subject to and contain such reasonable conditions as necessary to carry out the purposes of this Chapter.

C. The authority shall establish such other qualifications for applicants or transferees, which may include evidence of financial responsibility or performance bonds, as will ensure an applicant's or transferee's ability to comply with this Chapter and the rules and regulations of the authority.

D. The authority shall establish the procedures for submission of applications for the issuance of licenses, the transfer of any license granted to the authority, or the issuance of other appropriate authorization, and shall determine what information must be submitted by the applicant. The authority may impose reasonable filing fees and may require the applicant to reimburse the authority for all expenses incurred in processing the application.

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E. The authority shall determine the length of time during which a license shall be valid, and the conditions upon which it may be revoked. The transfer by the authority of any of its rights under a license, certificate, permit, or authorization granted to the authority shall be for the term specified in the original authorization to the authority. Licenses may be revoked, suspended, annulled, or withdrawn in accordance with the procedures established by the authority.

F. Rules, regulations, and procedures pursuant to the provisions of this Section shall be adopted and promulgated, but shall be subject to prior approval by the House and Senate committees on transportation, highways and public works.

§3505. Remedies and enforcement

In addition to all other rights herein granted, the authority and the courts shall have the power to assure compliance with the purposes of this Chapter as follows:

(1) If the authority's board of commissioners or executive director has reasonable cause to believe that there exists a violation of this Chapter or of the authority's rules and regulations, which could result in irreparable injury to the authority's operations, the environment, or the public interest, the authority may petition a court of competent jurisdiction for appropriate mandatory, injunctive, or other relief pending final adjudication of such matters.

(2) The authority may issue such orders as the public interest and equities of the case may require, and as may be necessary to effectuate the purposes of this Chapter, including but not limited to cease and desist orders, revocation of or other appropriate action affecting licenses issued by the authority, and such affirmative action as may be appropriate.

(3) In the event that the authority should determine that any order made by it, and not then the subject of judicial review, is being violated, the authority may institute a civil action in any court of competent jurisdiction, for enforcement of the authority's order. The enforcement proceeding shall be

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confined to the record before the authority. The court may enforce, remand, reverse, or modify the order of the authority.

§3506. Coordination and cooperation

A. It is the policy of this Chapter that the authority development program be pursued so that there is full coordination and cooperation between agencies and groups that have complementing or overlapping interests with the authority. It is not the policy of this Chapter that the authority development program be pursued independently and with a view toward narrow, short-term interests.

B. The board of commissioners shall take affirmative steps to ensure that the authority development program develops programs for, or is coordinated into the planning programs of other modes of transportation, to include rail, road, waterway, air, and pipeline, so that there is a long-term and orderly pursuit of transportation services in the coastal zone or related to the facility which are interrelated and coordinated so as to achieve the most efficient and economical transportation program that is feasible and that will be least destructive of other values in the state.

C. The board of commissioners shall ensure that the appropriate federal agencies which are required by federal law to plan or regulate transportation facilities or programs are consulted regularly and are fully involved in the authority development program where appropriate.

Section 2. This Act shall become effective on July 1, 2008; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2008, or on the day following such approval by the legislature, whichever is later.

_____
PRESIDENT OF THE SENATE

_____
SPEAKER OF THE HOUSE OF REPRESENTATIVES

_____
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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