Regular Session, 2011

HOUSE BILL NO. 159

BY REPRESENTATIVE ROSALIND JONES

DISTRICTS/SPECIAL: Creates the Ouachita Riverfront Development Commission

AN ACT

To enact R.S. 33:9038.65, relative to the city of Monroe, to create the Ouachita Riverfront Development Commission as a special taxing district within the city; to provide relative to the purpose, boundaries, governance, and powers and duties of the district; to provide relative to district funding, including the authority to use tax increment financing; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article III, Section 13 of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:9038.65 is hereby enacted to read as follows:

§9038.65. Ouachita Riverfront Development Commission

A. Creation. There is hereby created in the city of Monroe, the Ouachita Riverfront Development Commission, as a special taxing district and body politic and corporate of the state, referred to in this Section as the "district". The district shall be a political subdivision of the state, and the district is hereby granted all of the rights, powers, privileges, and immunities accorded by law and the Constitution of Louisiana to political subdivisions of the state, subject to the limitations provided in this Section.

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B. Boundaries. The district shall be comprised of the following described parcels or tracts of land located in the city of Monroe, referred to in this Section as the "property":

A certain tract or parcel of land situated in Sections 46, 56, and 57, Township 17 North, Range 3 East & Sections 50, 54, and 55, Township 18 North, Range 3 East, Land District North of Red River, Ouachita Parish, Louisiana and being more particularly described as follows:

Commence at the intersection of the centerline of Louisville Avenue and the centerline of Walnut Street located in Section 50, Township 18 North, Range 3 East, Land District North of Red River, Ouachita Parish, Louisiana and the POINT OF BEGINNING; proceed South 33/51'56" East along the centerline of Walnut Street, a distance of 722.41 feet; thence proceed South 33/23'50" East along said centerline, a distance of 894.26 feet; thence proceed South 33/19'52" East along said centerline, a distance of 247.11 feet to the intersection of the centerline of Walnut Street and the centerline of North Grand Street; thence proceed South 24/04'32" East along the centerline of North Grand Street, a distance of 727.45 feet to the intersection of the centerline of North Grand Street, the centerline of DeSiard Street and the centerline of South Grand Street; thence proceed South 24/01'24" East along the centerline of South Grand Street, a distance of 1,795.22 feet; thence proceed South 23/04'42" East along said centerline, a distance of 294.41 feet; thence proceed South 17/26'24" East along said centerline, a distance of 1,029.44 feet; thence proceed South 10/00'29" East along said centerline, a distance of 162.63 feet; thence proceed South 06/24'39" East along said centerline, a distance of 210.93 feet; thence proceed South 11/26'28" East along said centerline, a distance of 201.85 feet; thence proceed South 22/26'34" East along said centerline, a distance of 234.43 feet; thence proceed South 35/18'40" East along said centerline, a distance of 207.80 feet; thence proceed South 45/45'50" East along said centerline, a distance of 124.91 feet to the intersection of South Grand Street and Morris Avenue; thence proceed South 70/09'02" West, a distance of 603.45 to the centerline of the Ouachita River; thence proceed North 18/49'36"

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West along the centerline of the Ouachita River, a distance of 1,525.34 feet; thence proceed North 18/26'06" West along said centerline, a distance of 1,087.37 feet; thence proceed North 21/47'40" West along said centerline, a distance of 1,164.15 feet; thence proceed North 37/49'42" West along said centerline, a distance of 1,669.87 feet; thence proceed North 49/11'06" West along said centerline, a distance of 1,277.99 feet to the intersection of the centerline of the Ouachita River and the centerline of Louisville Avenue; thence proceed North 53/26'29" East along the centerline of Louisville Avenue, a distance of 1,153.06 feet to the POINT OF BEGINNING, containing 102.80 acres, more or less, and being subject to all easements, servitudes and rights-of-way of record and/or of use.

C. Purpose. The district is created to provide for cooperative economic and community development among the district, the city, the state, and the owners of property in the district, in order to assist in the redevelopment of and improvement to the property within the area of the district.

D. Governance. (1) In order to provide for the orderly development of the district and effectuation of the purposes of the district, the district shall be administered and governed by a board of commissioners, referred to in this Section as the "board", comprised of seven members as follows:

(a) The mayor of the city of Monroe shall appoint one member.

(b) The five members of the governing authority of the city of Monroe shall each appoint one member.

(c) The chairman of the Downtown Economic Development District of the city of Monroe, or his designee, shall serve as an ex officio member of the board.

(2) Each member appointed to the board, and any designee, shall be a citizen of the city of Monroe, and at least one member of the board shall own property within the district or be the representative of a private entity that owns property within the district.

(3)(a) Appointed members of the board shall serve four-year terms after serving initial terms as provided in Subparagraph (b) of this Paragraph.

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(b) Two members shall serve an initial term of one year; two shall serve two years; one shall serve three years; and one shall serve four years as determined by lot at the first meeting of the board.

(c) The chairman of the Downtown Economic Development District shall serve during his term of office. Any designee of the chairman shall serve at the pleasure of the chairman.

(4) Upon expiration of the term of any appointed member of the board, such member shall continue to serve until reappointed or a successor is duly appointed. Any vacancy in the membership of the board, occurring either by reason of death, resignation, or otherwise, shall be filled in the manner of the original appointment. If such appointment to fill a vacancy does not take place within sixty days, the board shall appoint an interim successor to serve until the position is filled by the appointing entity.

(5) Any member of the board may be removed by a three-fourths vote of the remaining membership of the board for cause, which cause may include failure to attend at least one-half of the meetings of the board in a calendar year.

(6) The members of the board shall serve without salary or per diem. The board may reimburse any member for reasonable, actual, and necessary expenses incurred in the performance of his duties pursuant to this Section.

(7) The board shall elect from its members a president, a vice president, a secretary, and a treasurer, whose duties shall be those common to such offices. At the option of the board, the offices of secretary and treasurer may be held by one person.

(8) The board shall meet in regular session once each month and shall also meet in special session as often as the president of the board convenes the board or upon the written request of three members. A majority of the members of the board of commissioners shall constitute a quorum for the transaction of business. All such meetings shall be public meetings subject to the provisions of R.S. 42:11 et seq. The board shall keep minutes of all meetings and shall make them available for

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inspection through the board's secretary or secretary-treasurer, who shall also maintain the minute books and archives of the district. The monies, funds, and accounts of the district shall be in the official custody of the board.

(9) The domicile of the board shall be established by the board at a location within the district. The official journal of the district shall be the official journal of the city of Monroe.

E. Rights and powers. The district, acting by and through its board, shall have and exercise all powers of a political subdivision necessary or convenient for the carrying out of its objects and purposes, including but not limited to the following:

(1) To sue and to be sued.

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

(3) To acquire by gift, grant, purchase, or otherwise all property, including rights-of-way; to hold and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the objects and purposes of the district, including but not limited to the establishment, maintenance, and operation of industrial parks, ports, harbors, and terminals.

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

(5) In its own name and on its own behalf, to incur debt and to issue revenue bonds, special assessment bonds, certificates, notes, and other evidences of indebtedness and to levy and cause to be collected certain taxes as provided in this Section and as may be provided by general law.

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

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

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(8) To appoint officers, agents, and employees, prescribe their duties, and fix their compensation.

(9) To exercise any and all of the powers granted to an economic development district as if the district were an economic development district established pursuant to Part II of Chapter 27 of this Title, including but not limited to the powers of tax increment financing pursuant to R.S. 33:9038.33 and 9038.34 and the power to levy taxes within the district pursuant to R.S. 33:9038.39, provided that any such powers exercised by the district shall be subject to the provisions of Part II of Chapter 27 of this Title.

(10) To exercise any and all of the powers granted to a community development district as if the district were a community development district established pursuant to Chapter 27-B of this Title, including but not limited to the power to levy special assessments on property within the district pursuant to R.S. 33:9039.29, provided that any such powers exercised by the district shall be subject to the provisions of Chapter 27-B of this Title.

F. Levy of taxes. (1) It is expressly provided that any taxes levied by the district, or any subdistrict created by the district, may exceed the limitation set forth by Article VI, Section 29(A) of the Constitution of Louisiana and shall be imposed, collected and enforced subject to the terms of the resolution imposing the tax and the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

(2) Any taxes or assessments of any type to be levied by the district, or any subdistrict created by the district, shall be levied only after the board has adopted an appropriate resolution giving notice of its intention to levy such taxes or assessments, which resolution shall include a general description of the taxes or assessments to be levied, and notice of this intention shall be published once a week for two weeks in the official journal of the district, the first publication to appear at least fourteen days before the public meeting of the board at which the board will meet in open and public session to hear any objections to the proposed taxes or assessments. The

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notice of intent so published shall state the date, time, and place of the public hearing. Such taxes or assessments may be levied only after the board has called a special election submitting the proposition for the levy of such taxes or assessments to the qualified electors of the district or subdistrict, as applicable, and the proposition has received the favorable vote of a majority of the electors voting in the election; however, if there are no qualified electors in the district or subdistrict, as applicable, as certified by the registrar of voters, no such election is required. The powers and rights conferred by this Section are in addition 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 levy of any taxes or assessments. No election, proceeding, notice, or approval is required for the levy of such taxes or assessments except as provided in this Section.

(3) If a tax under this Section is proposed for the district or for a subdistrict where there are no qualified electors, such tax shall not become effective unless and until it is approved by the governing authority of the city of Monroe.

G. Creation of subdistricts. The district may create subdistricts as provided in this Section. The district shall publish notice of its intent to create a subdistrict in the official journal of the district. At least ten days after publication of such notice in the official journal of the district, the board shall conduct a public hearing on the question of creating a subdistrict. Thereafter, the board may designate one or more areas within the boundaries of the district as a subdistrict of the district. Each subdistrict shall constitute a political subdivision of the state and shall be governed by the board. Each subdistrict shall have the same powers as the district and shall be given a name and designated as "Ouachita Riverfront Development District, Subdistrict No." or such other suitable name as the board may designate.

H. Bonds of the district. (1) The district, or any subdistrict created by the district, is hereby authorized and empowered to issue and sell from time to time bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper,

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or other obligations or evidences of indebtedness to provide funds for and to fulfill and achieve its public purpose or corporate purposes, as set forth in this Section, including but not limited to the payment of all or a portion of the costs of a project, to provide amounts necessary for any corporate purposes, including necessary and incidental expenses in connection with the issuance of the obligations, the payment of principal and interest on the obligations of the district, the establishment of reserves to secure such obligations, and all other purposes and expenditures of the district incident to and necessary or convenient to carry out its public functions or corporate purposes, and any credit enhancement for said obligations.

(2) Except as may otherwise be provided by the board, all obligations issued by the district, or any subdistrict created by the district, shall be negotiable instruments and payable solely from the revenues of the district or subdistrict, as applicable, as determined by the board, or from any other sources whatsoever, that may be available to the district or subdistrict, as applicable, but shall not be secured by the full faith and credit of the state or the city of Monroe.

(3) Obligations shall be authorized, issued, and sold by a resolution or resolutions of the board. Such bonds or obligations may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in R.S. 39:1426, be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the income, revenue, and receipts of, or available to, the district or subdistrict, as applicable, as may be provided by the board in the resolution or resolutions providing for the issuance and sale of the bonds or obligations of the district.

(4) The obligations of the district, or any subdistrict created by the district, shall be signed by such officers of the board by either manual or facsimile signatures

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as shall be determined by resolution or resolutions of the board, and shall have impressed or imprinted thereon the seal of the district, or a facsimile thereof.

(5) Any obligations of the district, or any subdistrict created by the district, may be validly issued, sold, and delivered, notwithstanding that one or more of the officers of the board signing such obligations, or whose facsimile signature or signatures may be on the obligations, shall have ceased to be such officer of the board at the time such obligations shall actually have been delivered.

(6) Obligations of the district, or any subdistrict created by the district, may be sold in such manner and from time to time as may be determined by the district to be most beneficial, subject to approval of the State Bond Commission, and the district may pay all expenses, premiums, fees, or commissions, which it may deem necessary or advantageous in connection with the issuance and sale thereof.

(7) The board may authorize the establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve, or such other funds or reserves as the board may approve with respect to the financing and operation of any project funded with the proceeds of such bonds and as may be authorized by any bond resolution, trust agreement, indenture of trust, or similar instrument or agreement pursuant to the provisions of which the issuance of bonds or other obligations of the district or subdistrict may be authorized.

(8) Any cost, obligation, or expense incurred for any of the purposes or powers of the district specified in this Section shall be a part of the project costs and may be paid or reimbursed as such out of the proceeds of bonds or other obligations issued by the district or subdistrict; provided however, no portion of any state sales taxes made directly available to the district pursuant to an agreement with the state shall be used by the district to pay the costs of constructing or operating any privately owned hotel located within the district, without the consent of the Joint Legislative Committee on the Budget or its successor.

(9) For a period of thirty days from the date of publication of the resolution authorizing the issuance of bonds hereunder, any persons in interest shall have the

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right to contest the legality of the resolution and the legality of the bond 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 authorized thereby for any cause whatsoever. If no suit, action, or proceeding is begun contesting the validity of the bond issue within the thirty days herein prescribed, the authority to issue the bonds 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, shall be conclusively presumed, and no court shall have authority to inquire into such matters.

(10) Neither the members of the board nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability by reason of the issuance thereof. No earnings or assets of the district, or any subdistrict created by the district, shall accrue to the benefit of any private persons; however, the limitation of liability provided for in this Paragraph shall not apply to any gross negligence or criminal negligence on the part of any member of the board or person executing the bonds.

(11) All obligations authorized to be issued by the district, or any subdistrict created by the district, pursuant to the provisions of this Section, together with interest thereof, income therefrom, and gain upon the sale thereof shall be exempt from all state and local taxes.

(12) The state and all public officers, any parish, municipality, or other subdivision or instrumentality of the state, any political subdivision, any bank, banker, trust company, savings bank and institution, building and loan association, savings and loan association, investment company or any person carrying on a banking or investment business, any insurance company or business, insurance association, and any person carrying on an insurance business, and any executor, administrator, curator, trustee, and other fiduciary, and any retirement system or pension fund may legally invest any sinking funds monies, or other funds belonging to them or within their control in any bonds or other obligations issued by the

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district, or any subdistrict created by the district, pursuant to the provisions of this Section, and such bonds or other obligations shall be authorized security for all public deposits. It is the purpose of this Section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities, public or private, to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations of the district or subdistrict, and that any such bonds shall be authorized security for all public deposits; however, nothing contained in this Section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm, corporation, or other entity from any duty of exercising reasonable care in selecting securities.

I. Term. The district shall dissolve and cease to exist upon the later to occur of either one year after the date on which all loans, bonds, notes, and other evidences of indebtedness of the district, including refunding bonds, are paid in full as to both principal and interest, or fifty years from the effective date of this Section.

J. Liberal construction. This Section, being necessary for the welfare of the state, the city, and its residents, shall be liberally construed to effect the purposes thereof.

K. Severability. The provisions of this Section are severable. It is intended that if any provision of this Section should be adjudged invalid or unenforceable, then such provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining provisions of this Section.

Section 2. This Act shall become effective on July 1, 2011; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2011, or on the day following such approval by the legislature, whichever is later.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Rosalind Jones HB No. 159

Abstract: Creates the Ouachita Riverfront Development Commission in the city of Monroe as a special taxing district and political subdivision of the state.

Proposed law creates the Ouachita Riverfront Development Commission in the city of Monroe as a special taxing district and political subdivision of the state. Provides district boundaries.

Proposed law provides that the district's purpose is to provide for cooperative economic and community development among the district, the city, the state, and the owners of the property in the district, in order to assist in the redevelopment of the property within the district.

Proposed law provides that the district shall be governed by a board of seven commissioners comprised as follows:

(1) One member appointed by the mayor of the city of Monroe.

(2) One member appointed by each of the five members of the governing authority of the city of Monroe.

(3) The chairman of the Downtown Economic Development District, or his designee, shall serve as an ex officio member of the board.

Proposed law provides that appointed members serve four-year staggered terms. Provides that the chairman of the Downtown Economic Development District shall serve during his term of office, and any designee of the chairman shall serve at the pleasure of the chairman. Provides with respect to officers and meetings of the board.

Proposed law provides that the domicile of the board shall be established by the board at a location within the district. Provides the general rights and powers of the district and its board shall include the following:

(1) To sue and to be sued.

(2) To adopt and use a corporate seal.

(3) To acquire by gift, grant, purchase, or otherwise all property, including rights-of-way.

(4) To enter into contracts for the purchase, acquisition, construction, and improvement of works and facilities.

(5) To incur debt and to issue revenue bonds, special assessment bonds, certificates, notes, and other evidences of indebtedness and to levy and cause to be collected certain taxes.

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

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

(8) To appoint officers, agents, and employees, prescribe their duties, and fix their compensation.

(9) To exercise any and all of the powers granted to an economic development district, including but not limited to the powers of tax increment financing and the power to levy taxes within the district.

(10) To exercise any and all of the powers granted to a community development district, including but not limited to the power to levy special assessments on property within the district.

Proposed law authorizes the district to exceed the limit for sales taxes set forth in the constitution. Provides that taxes and assessments to be levied by the district shall be levied only after the board has adopted a resolution and given notice at least 14 days prior to the public meeting of the board to hear any objections to the proposed taxes or assessments. Provides that such taxes or assessments may be levied only after approval of the electors voting at a special election; however, if there are no qualified electors in the district, no election is required, but the tax shall not become effective unless and until approved by the governing authority of the city.

Proposed law authorizes the district to create subdistricts as political subdivisions of the state to be governed by the board of the district. Grants subdistricts the same powers as the district.

Proposed law authorizes the district to issue bonds, notes, certificates of indebtedness, and other obligations or evidences of indebtedness. Provides that obligations shall be authorized, issued, and sold by a resolution of the board in such manner and from time to time as determined by the district, subject to approval of the State Bond Commission.

Proposed law provides that for 30 days after the date of publication of the resolution authorizing the bonds, any person in interest may contest the legality of such. After 30 days, no one shall have any right to contest the legality of the resolution.

Proposed law provides that the district will dissolve upon the later of one year after the date on which all loans, bonds, notes, and other evidences of indebtedness of the district are paid in full or 50 years from the effective date of proposed law.

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

(Adds R.S. 33:9038.65)

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