ENROLLED

Regular Session, 2011

ACT No. 207

HOUSE BILL NO. 639 (Substitute for House Bill No. 584 by Representative Smiley)

BY REPRESENTATIVE SMILEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

To amend and reenact R.S. 3:3552(A), R.S. 34:3101(B)(7), 3106(A), 3107, 3108(A), 3109(C)(9), 3112(G), 3112.1(A)(8) and (C), 3113(B), (E), (G), (H), and (J)(4), 3115(A), and 3116(B), (C), and (D), R.S. 36:509(L) and 913(A) and to repeal Subpart M of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised Statutes of 1950, comprised of R.S. 11:301 through 309, Chapter 23 of Title 25 of the Louisiana Revised Statutes of 1950, comprised of R.S. 25:1011 through 1016, Chapter 33 of Title 25 of the Louisiana Revised Statutes of 1950, comprised of R.S. 25:1301 through 1307, Chapter 35 of Title 25 of the Louisiana Revised Statutes of 1950, comprised of R.S. 25:1321 through 1325, R.S. 28:311 through 313, R.S. 29:735.4, R.S. 34:3102(2) and (15), 3104, 3105, and 3113(F), R.S. 36:4(B)(1)(o), (S), and (T), 4.1(D)(17), Part V-B of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:211 through 216, Chapter 26 of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1481 through 1485, R.S. 46:1941.8(A)(3)(b), and R.S. 51:943, relative to boards, commissions, authorities, districts, and like entities; to provide relative to the functional organization of state government by abolishing certain boards, commissions, authorities, and like entities; to transfer certain powers and responsibilities; to remove references to certain abolished entities; to remove references to, provisions for, and the powers, functions, and duties of the Commission on Public Retirement, the Compensation Review Commission, the Emergency/Disaster Medicine Review Panel, the Louisiana Governor's Mansion Commission, the Hurricane Katrina Memorial Commission, the Louisiana Wetlands

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Conservation and Hurricane Protection Tourist Center Commission, the Small Business Entrepreneurship Commission, the Louisiana Technology Innovations Council, and the Youth Enhanced Services Consortium; and the Offshore Terminal Authority; to provide for transfer of some of the powers, functions, and duties of some of the above-referenced entities; to provide for certain technical corrections regarding placement of boards and commissions in the Executive Reorganization Act; to provide relative to membership on the Louisiana Soybean and Grain Research and Promotion Board; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Commission on Public Retirement

Section 1. Subpart M of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised Statutes of 1950, comprised of R.S. 11:301 through 309, is hereby repealed in its entirety.

Compensation Review Commission

Section 2. Chapter 26 of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1481 through 1485, is hereby repealed in its entirety.

Emergency/Disaster Medicine Review Panel

Section 3. R.S. 29:735.4 is hereby repealed in its entirety.

Louisiana Governor's Mansion Commission

Section 4. Chapter 23 of Title 25 of the Louisiana Revised Statutes of 1950, comprised of R.S. 25:1011 through 1016, and R.S. 36:4(T) are hereby repealed in their entirety.

Hurricane Katrina Memorial Commission

Section 5. Chapter 33 of Title 25 of the Louisiana Revised Statutes of 1950, comprised of R.S. 25:1301 through 1307, and R.S. 36:4(B)(1)(o) are hereby repealed in their entirety.

Louisiana Wetlands Conservation and Hurricane Protection Tourist Center Commission

Section 6. Chapter 35 of Title 25 of the Louisiana Revised Statutes of 1950, comprised of R.S. 25:1321 through 1325, is hereby repealed in their entirety.

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Small Business Entrepreneurship Commission

Section 7. R.S. 36:4.1(D)(17) and R.S. 51:943 are hereby repealed in their entirety.

Louisiana Technology Innovations Council

Section 8. R.S. 36:4(S) and Part V-B of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:211 through 216, are hereby repealed in their entirety.

Youth Enhanced Services Consortium

Section 9. R.S. 28:311 through 313 and R.S. 46:1941.8(A)(3)(b) are hereby repealed in their entirety.

Offshore Terminal Authority

Section 10.(A) R.S. 34:3101(B)(7), 3106(A), 3107, 3108(A), 3109(C)(9), 3112(G), 3112.1(A)(8) and (C), 3113(B), (E), (G), (H), and (J)(4), 3115(A), and 3116(B), (C), and (D) are hereby amended and reenacted to read as follows:

§3101. Object; purpose of chapter

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B. It is further the object and purpose of this Chapter:

* * *

(7) To create a state agency of the state of Louisiana to exercise the powers and functions granted hereby and to serve as an agency to assist licensees, as hereinafter defined, in the financing of deepwater ports and offshore terminal facilities. The functions exercised by the ~~board~~ authority empowered herein shall be deemed to be governmental functions and public obligations of the state of Louisiana performed on behalf of the state.

* * *

§3106. Annual reports; budget unit

A. The ~~board of commissioners~~ executive director shall make an annual report to the governor showing all receipts and disbursements of the ~~board;~~ authority; the number of arrivals and departures of vessels and their tonnage; the exports and imports passing through the authority; the general condition of the authority and its

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structures, facilities, and other properties; and make such recommendations for its development, welfare, and management as may seem advisable.

* * *

§3107. Executive director; selection; duties; employees; compensation

A. The ~~board of commissioners shall select~~ governor shall appoint an executive director who shall exercise all control over all executive functions and the general operation of the authority. The authority may ~~either directly or~~ through ~~their~~ its executive director employ such other agents and employees permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. The executive director shall serve at the pleasure of the ~~board.~~ governor. 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~~ authority, all to be accomplished in accordance with applicable civil service laws, rules, and regulations.

B. ~~The executive director, in addition to his usual functions, shall be secretary to the board of commissioners.~~ The ~~board of commissioners~~ secretary of the Department of Transportation and Development shall fix the compensation of the executive director~~.~~, which shall be reasonable in light of fees charged by the authority to provide for its administrative costs attributable to the authority development program.

C. All employees of the authority, except ~~the board of commissioners,~~ the executive director, an assistant executive director, an executive secretary to the executive director, and professional employees employed on a contract basis, shall be in the classified service of the state.

§3108. Acquisition of sites; lease of state owned lands and water bottoms

A.(1) To enable the authority to perform the work herein provided, the state of Louisiana, acting by and through the register of state lands, is hereby authorized, empowered and directed to grant to the authority a lease on state owned lands and water bottoms which are selected by the authority as sites for offshore terminal

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facilities; provided, however, that the mineral rights on any and all state lands shall be reserved to the state of Louisiana.

(2) Upon receipt of a request from the ~~governing body of the~~ authority describing the lands to be leased by the authority, it is hereby made the mandatory duty of the register of state lands to issue a certificate of title evidencing the lease of the land to the authority as described in the request.

* * *

§3109. Powers

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

* * *

(9) To make secured or unsecured loans, but solely from funds obtained from the sale of revenue bonds issued under ~~Section 3112.1~~ R.S. 34:3112.1 for the purpose of financing or refinancing the acquisition, construction, improvement, or equipping of a revenue bond project or revenue bond projects; to charge and collect interest on such loans and pledge the proceeds of loan agreements as security for the payment of the principal and interest of bonds, or designated issues of bonds issued by the authority and any agreements made in connection therewith, whenever the ~~board~~ secretary of the Department of Transportation and Development finds such loans to be in furtherance of the public purposes and obligations of the authority and in the public interest, it being recognized that the funds being loaned are not funds of the state or of any political subdivision thereof, but are ~~moneys~~ monies obtained from revenue bonds secured by payments to be made by licensees and other private industrial and commercial enterprises.

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§3112. Bonds; procedure for issuance

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G. Such bonds shall be authorized by a resolution of the ~~board of commissioners of the authority~~ secretary of the Department of Transportation and

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Development and shall be of such series, bear such date or dates, mature at such time or times not exceeding forty 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 full 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 not exceeding one hundred five percent of the principal amount thereof, and be entitled to such priority on the revenues of the authority as such resolution or resolutions may provide. The bonds 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 may be issued and delivered, notwithstanding that one or more of the officers signing such bonds or the officers whose facsimile signature or signatures may be upon the coupons shall have ceased to be such officer or officers at the time such bonds shall actually have been delivered. Said bonds 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 as hereinabove provided, 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~~ authority may publicly negotiate for the sale of such bonds without further advertisement. No proceedings in respect to the issuance of any such bonds shall be necessary except such as are contemplated by this ~~section~~ Section.

* * *

§3112.1. Additional authorization to issue revenue bonds and notes

A. Power to issue revenue bonds and notes. Without reference to any other provisions of the constitution and of the laws of Louisiana and as a grant of power in addition to the authority to issue bonds contained in Section 3112 of this Chapter

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and 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, and/or construction of deepwater ports and offshore terminal facilities 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 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.

* * *

(8) Nonliability of officers. ~~No member of the board or~~ Neither the executive director, any officer of the authority, nor the secretary of the Department of Transportation and Development ~~and no~~ nor any officer or member of the State Bond Commission ~~or~~ nor any person executing such revenue bonds shall be liable personally on such bonds.

* * *

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. Neither the making of contracts nor the issuance of revenue bonds or refunding revenue bonds or other obligations pursuant to the provisions of this Section need comply with the requirements of any other state law applicable to the making of contracts and the issuance of the revenue bonds or other obligations for the financing of any revenue bond project or projects undertaken pursuant to this Section, except as herein provided. In accordance with Title 36 of the Louisiana Revised Statutes of 1950, the secretary of the Department of Transportation and Development is

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vested with and is hereby granted the right, power, and authority to do, perform, and exercise for 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. No proceedings, notice, or approval shall be required for the issuance of any revenue bonds or any instrument as security therefor, except as provided in this Section. The provisions of this Section shall be liberally construed for the accomplishment of its purposes.

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§3113. Environmental protection plan

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B. The environmental protection plan shall be formulated by the ~~three directors, as herein defined, with the advice and consent of the board of commissioners of the authority~~ executive director subject to approval of the secretary of the Department of Transportation and Development.

* * *

E. The environmental protection plan may be amended at any time in accordance with the provisions of the Louisiana Administrative Procedure Act, to reflect changes in the authority development program. Initiation for changes may come from ~~any of the three directors~~ the executive director or any interested person.

* * *

G. The environmental protection plan shall be an integral part of the authority development program. Costs incurred to develop the initial plan, or any amendments to it, shall be considered an internal cost of the authority development program and shall be considered a cost to the same extent that economic, engineering, or promotional programs are considered costs. The ~~three directors~~ executive director, subject to approval of the secretary of the Department of Transportation and Development, shall agree on the appropriate level of funding for the developing of the authority environmental protection plan, prepare any amendments thereto, and carry out the requirements of the plan. To the extent possible, federal funds shall be sought to assist in this effort.

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H. The best talent available shall be sought to perform the studies and surveys necessary to develop an environmental protection plan and carry out its requirements in accordance with this ~~chapter~~ Chapter. To the extent possible, university-based, public and private researchers in Louisiana shall be utilized. In all cases, the research in support of the environmental protection plan shall be coordinated by ~~agreement of the three directors~~ the executive director. The results of all research done in support of the environmental protection plan shall be open to the public and available to any interested person.

* * *

J. The environmental protection plan shall:

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(4) Present details of how the operational aspects of the authority development program will be conducted so as to minimize environmental problems, including but not limited to a monitoring program by appropriate public or private persons selected by the ~~board of commissioners~~ secretary of the Department of Transportation and Development; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions and mechanisms to ~~insure~~ ensure cleanup of accidental spills by technical means, with evidence of financial responsibility to ~~insure~~ ensure performance of the cleanup, and compliance with the enforcement provisions of the environmental protection plan. The plan shall consider the circumstances which may justify the temporary cessation of the port activities.

* * *

§3115. 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:

A. If the authority's ~~board of commissioners or~~ executive director has reasonable cause to believe that there exists a violation of this ~~chapter~~ 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

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petition the Civil District Court for the parish of Orleans, or any other court of competent jurisdiction, for appropriate mandatory, injunctive, or other relief pending final adjudication of such matters.

* * *

§3116. Coordination and cooperation

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B. The ~~board of commissioners~~ executive director shall take affirmative steps to fully coordinate all aspects of the authority development program with the ~~Louisiana Advisory Commission on Coastal and Marine Resources (Act No. 35 of 1971) or its successor group, which is charged with the development of a coastal zone management plan for the state~~ secretary of the Department of Natural Resources or his designee charged with the development of the coastal zone management plan.

C. The ~~board of commissioners~~ executive director shall take affirmative steps to ~~insure~~ ensure that the authority development program 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 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.

D. The ~~board of commissioners~~ executive director shall ~~insure~~ 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.

(B) R.S. 36:509(L) and 913(A) are hereby amended and reenacted to read as follows:

§509. Transfer of agencies to Department of Transportation and Development

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L. The Offshore Terminal Authority is transferred to and hereafter shall be within the Department of Transportation and Development, as provided ~~in R.S. 36:913~~ by law.

* * *

§913. Transfer; certain appointing authority retained

A. The agencies transferred by the provisions of R.S. ~~36:509(L) and 629(D)~~ 36:629(D) shall be transferred as provided in this Part except that each agency so transferred shall continue to appoint its own director and assistant director or personnel to fill comparable positions as provided by law.

* * *

(C) R.S. 34:3102(2) and (15), 3104, 3105, and 3113(F) are hereby repealed in their entirety.

Louisiana Soybean and Grain Research and Promotion Board

Section 11. R.S. 3:3552(A) is hereby amended and reenacted to read as follows:

§3552. Louisiana Soybean and Grain Research and Promotion Board; creation and organization

A. The Louisiana Soybean and Grain Research and Promotion Board is created with its domicile at Baton Rouge, Louisiana. The board shall be composed of ~~ten~~ twelve producer members to be appointed by the governor to serve terms concurrent with the governor. Each appointment by the governor shall be submitted to the Senate for confirmation. Eight members of the board shall be practical producers of soybeans in the state of Louisiana and ~~two~~ four members shall be practical producers of wheat, corn, or grain sorghum. The Louisiana Farm Bureau Federation, Inc., shall submit the names of eight practical soybean producers to the governor, and he shall appoint five persons from the nominees to serve on the board. The Louisiana Soybean Association shall submit the names of five practical soybean producers to the governor, and he shall appoint three members from the nominees to serve on the board. The Louisiana Farm Bureau Federation, Inc., shall submit the names of three persons who produce wheat, corn, or grain sorghum to the governor and he shall appoint two persons from these nominees to serve on the board. The

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Louisiana Cotton and Grain Association shall submit the names of three persons who produce wheat, corn, or grain sorghum to the governor and he shall appoint two persons from these nominees to serve on the board. Every fourth year the aforenamed organizations shall submit the names of nominees to the governor and succeeding boards shall be appointed by the governor in the same manner, giving equal representation to each organization in the appointment of the eight members who are practical soybean producers.

* * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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