

Regular Session, 2012

HOUSE BILL NO. 924

BY REPRESENTATIVE WESLEY BISHOP

DISTRICTS/ECONOMIC DEVEL: Creates the Downman Road Economic Development District in Orleans Parish

1 AN ACT

2 To enact R.S. 33:2740.70.1, relative to Orleans Parish; to create the Downman Road
3 Economic Development District within the parish; to provide relative to the
4 boundaries, purpose, and powers and duties of the district; to provide relative to
5 district funding, including the authority to levy taxes; and to provide for related
6 matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 33:2740.70.1 is hereby enacted to read as follows:

12 §2740.70.1. The Downman Road Economic Development District; creation,
13 composition, and powers; levy of ad valorem taxes and issuance of bonds

14 A. There is hereby created within the parish of Orleans a body politic and
15 corporate which shall be known as the Downman Road Economic Development
16 District, referred to in this Section as the "district". The district shall be a political
17 subdivision of the state as defined in the Constitution of Louisiana.

18 B. The boundaries of the district shall encompass the area included within
19 the following perimeter: Jourdan Road on the west, Hayne Boulevard on the north,
20 Downman Road on the east, and Old Gentilly Road on the south. The boundaries of

1 the district shall also include all of the territory included within the geographic
2 boundaries of the New Orleans Lakefront Airport.

3 C. The governing authority of the city of New Orleans, referred to in this
4 Section, collectively, as the "city council", shall have such power and control over
5 and responsibility for the functions, affairs, and administration of the district as
6 provided in this Section.

7 D. The district shall be governed by a ten-member board of commissioners,
8 referred to in this Section as the "board". The board shall be composed as follows:

9 (1)(a) The state representative who represents House District No. 99, or his
10 designee.

11 (b) Two members shall be appointed by the state representative who
12 represents House District No. 99. Each member shall own a business located within
13 the boundaries of the district.

14 (c) The state senator whose district encompasses all or a greater portion of
15 the area of the district, or his designee.

16 (d) The mayor of the city of New Orleans, or his designee.

17 (e) The member of the governing authority of the city of New Orleans whose
18 district encompasses all or a greater portion of the area of the district, or his
19 designee.

20 (f) The president of the Pines Village Neighborhood Association.

21 (g) The president of the Melia Neighborhood Association.

22 (h) The president of the Rosedale Neighborhood Association.

23 (i) The president of the Kenilworth Neighborhood Association.

24 (2) Appointed members shall at the pleasure of the appointing authority. The
25 president of each neighborhood association shall serve during his term of office.
26 Each designee shall serve at the pleasure of his respective designating authority.

27 (3) As soon as practicable after the effective date of this Section, the board
28 shall meet and elect from its number a chairman, a vice chairman, a treasurer, and
29 such other officers as it may deem appropriate. A secretary of the board may be

1 selected from among the members or may be otherwise selected or employed by the
2 board. The duties of the officers shall be fixed by bylaws adopted by the board.

3 (4) The board shall adopt such rules and regulations as it deems necessary
4 or advisable for conducting its business and affairs and shall engage such assistants
5 and employees as are needed to assist the board in the performance of its duties. It
6 shall hold regular meetings as shall be provided by its bylaws and may hold special
7 meetings at such time and places within or without the districts as may be prescribed
8 in its rules or regulations.

9 (5) A majority of the members of the board shall constitute a quorum for the
10 transaction of business. The board shall keep minutes of all regular and special
11 meetings and shall make them available to the public in conformance with law.

12 (6) The members of the board shall serve without compensation; however,
13 they shall receive travel allowance as reimbursement for expenses incurred while
14 attending to the business of the district.

15 (7) Any member of the board may serve on the board of a private entity that
16 enters into contracts with the district provided that the member does not receive
17 compensation from the private entity.

18 E.(1) The district, through the board, shall have and exercise all powers of
19 a political subdivision necessary or convenient for the carrying out of its objects and
20 purposes, including but not limited to the following:

21 (a) To sue and to be sued.

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

23 (c) To adopt bylaws and rules and regulations.

24 (d) To receive by gift, grant, donation, or otherwise any sum of money,
25 property, aid, or assistance from the United States, the state of Louisiana, or any
26 political subdivision thereof, or any person, firm, or corporation.

27 (e) To enter into contracts, agreements, or cooperative endeavors with the
28 state and its political subdivisions or political corporations and with any public or
29 private association, corporation, business entity, or individual.

1 (f) To appoint officers, agents, and employees, prescribe their duties, and fix
2 their compensation.

3 (g) To acquire by purchase, gift, grant, donation, lease, or otherwise such
4 property as may be necessary or desirable for carrying out the objectives and
5 purposes of the board.

6 (2) The district shall not be deemed to be an instrumentality of the state for
7 purposes of Article X, Section 1(A) of the Constitution of Louisiana.

8 F.(1) All services to be furnished within the district may be furnished,
9 supplied, and administered by the city of New Orleans through its regularly
10 constituted departments, agencies, boards, commissions, and instrumentalities as
11 appropriate in the circumstances; and all capital improvements and facilities to be
12 acquired, constructed, or provided within the district, whether from the proceeds of
13 bonds or otherwise, may likewise be so acquired, constructed, or provided by the city
14 of New Orleans through its regularly constituted departments, agencies, boards,
15 commissions, and instrumentalities as appropriate in the circumstances, it being the
16 intention hereof to avoid absolutely the duplication of administrative and
17 management efforts and expense.

18 (2) In order to provide such services and to provide, construct, or acquire
19 such capital improvements or facilities, the board may enter into contracts with the
20 city of New Orleans. The cost of any such services, capital improvements, and
21 facilities may be paid to the city of New Orleans from the proceeds of the special tax
22 levied upon immovable property within the district as provided in this Section, or
23 from the proceeds of bonds, as the case may be.

24 (3) However, with the prior approval of the mayor and the city council, when
25 the service sought is not ordinarily provided by the city of New Orleans, the board
26 may contract with other entities subject to approval of the mayor and the city
27 council, for such services. The cost of such specially contracted services shall be
28 paid for by the board with its funds budgeted therefor.

1 (4) Notwithstanding the provisions of this Subsection, the board may
2 exercise all of the powers granted to a community development district as provided
3 in R.S. 33:9039.19, 9039.20, and 9039.32.

4 G.(1)(a) The city council, in addition to all other taxes which it now or
5 hereafter may be authorized by law to levy and collect, is hereby authorized to levy
6 and collect as provided in this Section for a term not to exceed fifty years from and
7 after the date the first tax is levied pursuant to the provisions of this Section, in the
8 same manner and at the same time as all other ad valorem taxes on property subject
9 to taxation by the city are levied and collected, a special ad valorem tax upon all
10 taxable immovable property situated within the boundaries of the district.

11 (b) The tax shall be levied and collected only after the question of its
12 imposition has been submitted to and approved by a majority of the qualified voters
13 of the district voting on the question at a regularly scheduled primary or general
14 election to be conducted in accordance with provisions of the Louisiana Election
15 Code.

16 (2) Any tax levied pursuant to the provisions of this Section shall be subject
17 to the homestead exemption as provided by Article VII, Section 20 of the
18 Constitution of Louisiana.

19 (3)(a) The proceeds of the tax shall be used solely and exclusively for the
20 purposes and benefit of the district.

21 (b) The proceeds shall be paid over to the Board of Liquidation, City Debt,
22 day by day as the same are collected and received by the appropriate officials of the
23 city of New Orleans and maintained in a separate account. The tax proceeds shall
24 be paid out by the Board of Liquidation, City Debt, solely for the purposes provided
25 for in this Section upon warrants or drafts drawn on such Board of Liquidation, City
26 Debt, by the appropriate officials of the city and the treasurer of the district.

27 H.(1)(a) The city of New Orleans, when requested by resolution adopted by
28 the vote of a majority of the members of the board, approved by a resolution of the
29 city council adopted by a majority vote of its members, and by resolution adopted

1 by the vote of a majority of the members of the Board of Liquidation, City Debt,
2 shall have power and is hereby authorized to incur indebtedness for and on behalf
3 and for the sole and exclusive benefit of the district, and to issue at one time, or from
4 time to time, negotiable bonds, notes, bond anticipation notes, renewal notes,
5 revenue bonds, short-term revenue bonds, refunding bonds, interim certificates,
6 certificates of indebtedness, certificates of participation, debentures, warrants,
7 commercial paper, short-term loans, and other obligations or evidences of
8 indebtedness, referred to in this Section collectively as bonds of the city of New
9 Orleans, the principal of, premium if any, and interest on which shall be payable
10 from the proceeds of the special tax authorized, levied, and collected pursuant to the
11 provisions of this Section or from any other sources whatsoever that may be
12 available to the district, including funds derived from rentals and leases of its
13 property for the purpose of paying the cost of acquiring and constructing capital
14 improvements and facilities within the district.

15 (b) The bonds shall not constitute general obligations of the state of
16 Louisiana, the parish of Orleans, or the city of New Orleans, nor shall any property
17 situated within the city other than property situated within the boundaries of the
18 district be subject to taxation for the payment of the principal of, premium if any, and
19 interest on such bonds. Furthermore, any indebtedness incurred by the city of New
20 Orleans for and on behalf and for the benefit of the district pursuant to the provisions
21 of this Section, whether evidenced by bonds, notes, or other evidences of
22 indebtedness, or otherwise, shall be excluded in determining the power of the city
23 of New Orleans to incur indebtedness and to issue its general obligation bonds. The
24 principal amount of such bonds which may be outstanding and unpaid at any one
25 time shall never exceed the sum of two hundred million dollars.

26 (c) The proceeds derived from the sale of all such bonds shall be paid over
27 to the appropriate officials of the city of New Orleans and shall be disbursed solely
28 for the purposes and benefit of the district. All such bonds shall be sold by the Board
29 of Liquidation, City Debt, and shall bear such rate or rates of interest, and shall,

1 except as otherwise specifically provided in this Section, be in such form, terms, and
2 denominations, be redeemable at such time or times at such price of or prices, and
3 payable at such times and places, within a period of not exceeding fifty years from
4 the date thereof, as the Board of Liquidation, City Debt, shall determine.

5 (2) The bonds shall be signed by the mayor of the city of New Orleans and
6 the director of finance of the city of New Orleans, or officers exercising a similar
7 function, and countersigned by the president or vice president and the secretary or
8 assistant secretary of the Board of Liquidation, City Debt, provided that in the
9 discretion of the Board of Liquidation, City Debt, all but one of such signatures may
10 be in facsimile, and the coupons attached to such bonds shall bear the facsimile
11 signatures of the director of finance and the secretary or assistant secretary. In case
12 any such officer whose signature or countersignature appears upon such a bond or
13 coupon shall cease to be such officer before delivery of the bonds or coupons to the
14 purchaser, such signature or countersignature shall nevertheless be valid for all
15 purposes. The cost and expense of preparing and selling the bonds shall be paid
16 from the proceeds thereof.

17 (3) The resolution of the Board of Liquidation, City Debt, authorizing the
18 issuance and sale of such bonds and fixing the form and details thereof, may contain
19 such other provisions, not inconsistent nor in conflict with the provisions of this
20 Section, as it may deem to be necessary or advisable to enhance the marketability
21 and acceptability thereof by purchasers and investors, including but without limiting
22 the generality of the foregoing, covenants with bondholders setting forth conditions
23 and limitations on the issuance of additional bonds constituting a lien and charge on
24 the special tax levied on real property within the district pari passu with bonds
25 theretofore issued and outstanding, and the creation of reserves for the payment of
26 the principal of and interest on such bonds. These bonds and the interest thereon are
27 exempt from all taxation levied for state, parish, or municipal or other local
28 purposes; and savings banks, tutors of minors, curators of interdicts, trustees, and
29 other fiduciaries are authorized to invest the funds in their hands in such bonds.

1 (4) The Board of Liquidation, City Debt, as now organized and created, and
2 with the powers, duties, and functions prescribed by existing laws, shall be continued
3 so long as any bonds authorized by this Section are outstanding and unpaid.

4 (5) Notwithstanding any other provision of this Section to the contrary, no
5 bonds shall be issued unless and until the maximum amount of the bonds has been
6 approved by a majority of the electors voting thereon in the city of New Orleans in
7 an election called for that purpose.

8 I. The district shall have the power to acquire, to lease, to insure, and to sell
9 immovable property within its boundaries.

10 J. The district shall have the power to advance to the city of New Orleans
11 funds for payment for services rendered by the city pursuant to a contract or
12 contracts between the district and the city.

13 K.(1) Notwithstanding any other provision of law to the contrary, if the
14 board determines, in its discretion, that it is in the best interest of the taxpayers and
15 that completion of public improvements and facilities will be expedited, the design
16 and construction phases of any project may be combined.

17 (2) The board shall adopt and promulgate rules for administering
18 design-build contracts. Such procedures shall include but not be limited to:

19 (a) Prequalification requirements of competitors for design-build projects.

20 (b) Public announcement procedures for solicitation of interested
21 design-build competitors.

22 (c) Scope of service requirements to be met by the successful
23 designer-builder.

24 (d) Requirements of letters of interest by competitors for the design-build
25 contract.

26 (e) Criteria and procedures for choosing a short list of interested competitors
27 from which to request the submission of technical proposals.

28 (f) Requirements for bid proposals by competitors for design-build contracts.

1 (g) Composition of and appointment of qualified individuals to the technical
2 review committee which shall grade and judge the technical proposals for ranking
3 and recommendation to the board.

4 (h) Selection, process of award, and execution of the design-build contract
5 for a stipulated sum certain.

6 (3) Notwithstanding any other provision of law to the contrary, the board
7 may utilize a competitive request for proposals process to select a design-build
8 contractor as follows:

9 (a) For a contract to be let under the provisions of this Subsection, the board
10 shall give adequate public notice of the request for proposals by advertising in the
11 official journal of the city at least thirty days before the last day that proposals will
12 be accepted. In addition, the board shall mail written notice to persons, firms, or
13 corporations who are known to be in a position to furnish the required services at
14 least thirty days before the last day that proposals will be accepted.

15 (b) The request for proposals shall clearly indicate the relative importance
16 of price and other evaluation factors, the criteria to be used in evaluating the
17 proposals, and the time frames within which the work shall be completed.

18 (c) Written or oral discussions shall be conducted with all responsible
19 offerors who submit proposals determined in writing to be reasonably susceptible of
20 being selected for award. Discussions shall not disclose any information derived
21 from proposals submitted by competing offers.

22 (d)(i) The contract award shall be made to the responsible offeror whose
23 proposal is determined in writing by the board to be the most advantageous to the
24 district, taking into consideration review of price and the evaluation factors set forth
25 in the request for proposals.

26 (ii) A request for proposals or other solicitation may be canceled or all
27 proposals may be rejected only if it is determined, based on reasons provided in
28 writing, that such action is taken in the best interest of the district.

1 (e) Each contract entered into pursuant to this Subsection shall contain at a
2 minimum:

3 (i) Description of the work to be performed and objectives to be met, as
4 applicable.

5 (ii) Amount and time of payments to be made.

6 (iii) Description of reports or other deliverables to be received, when
7 applicable.

8 (iv) Date of reports or other deliverables to be received, when applicable.

9 (v) Responsibility for payment of taxes, when applicable.

10 (vi) Circumstances under which the contract can be terminated either with
11 or without cause.

12 (vii) Remedies for default.

13 (viii) A statement giving the legislative auditor the authority to audit records
14 of the individuals or firms.

15 (f) When written proposals are submitted by offerors, the proposals of the
16 successful offeror shall be incorporated into the final contract consummated with that
17 offeror.

18 (4) There shall be no challenge by any legal process to the choice of the
19 successful designer-builder other than for fraud, bias for pecuniary or personal
20 reasons not related to the interest of the taxpayers, or arbitrary and capricious
21 selection by the board. Once the designer-builder has been chosen and a contract for
22 a stipulated sum certain executed, the price of the design-build contract shall not be
23 increased other than for inflation, as prescribed in the contract, and for site or other
24 conditions existing at the site or concerning the design and construction of which the
25 designer-builder had no knowledge and should not have had knowledge as a
26 reasonable possibility.

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

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)]

Wesley Bishop

HB No. 924

Abstract: Creates the Downman Road Economic Development District in the parish of Orleans. Provides for the boundaries, governance, and powers and duties of the district, including the authority to levy taxes.

Proposed law creates the Downman Road Economic Development District as a political subdivision of the state in the parish of Orleans. Provides that the governing authority of the city of New Orleans shall have such power and control over and responsibility for the functions, affairs, and administration of the district as provided in proposed law. Provides for district boundaries which include all of the territory included within the geographical boundaries of the New Orleans Lakefront Airport.

Proposed law provides that the district is governed by a 10-member board of commissioners. Provides that the board is composed as follows:

- (1) The state representative who represents House District No. 99, or his designee.
- (2) Two members appointed by the state representative who represents House District No. 99. Each member shall own a business located within the boundaries of the district.
- (3) The state senator whose district encompasses all or a greater portion of the area of the district, or his designee.
- (4) The mayor of the city of New Orleans, or his designee.
- (5) The member of the governing authority of the city of New Orleans whose district encompasses all or a greater portion of the area of the district, or his designee.
- (6) The president of the Pines Village Neighborhood Association.
- (7) The president of the Melia Neighborhood Association.
- (8) The president of the Rosedale Neighborhood Association.
- (9) The president of the Kenilworth Neighborhood Association.

Proposed law requires each designee to be a resident of the district and a qualified voter of the city of New Orleans. Provides that appointed members serve at the pleasure of the appointing authority and each designee shall serve at the pleasure of his respective designating authority.

Proposed law requires the board to elect from its number a chairman, a vice chairman, a treasurer, and such other officers as it may deem appropriate. Provides that the duties of the officers shall be fixed by bylaws adopted by the board. Requires the board to adopt such rules and regulations as it deems necessary or advisable for conducting its business.

Proposed law requires board members to serve without compensation but provides that they shall receive travel allowance as reimbursement for expenses incurred while attending to the business of the district. Authorizes any member of the board to serve on the board of a private entity that enters into contracts with the district provided that the member does not receive compensation from the private entity.

Proposed law provide for the powers and duties of the district. Provides that all services to be furnished within the district may be furnished, supplied, and administered by the city of New Orleans through its regularly constituted departments, agencies, boards, commissions, and instrumentalities as appropriate in the circumstances.

Proposed law authorizes the board to enter into contracts with the city of New Orleans in order to provide services and provide, construct, or acquire capital improvements or facilities. Provides that the cost of any such services, capital improvements, and facilities may be paid to the city of New Orleans from the proceeds of the special tax levied upon real property within the district, or from the proceeds of bonds, as the case may be.

Proposed law provides that when the service sought is not ordinarily provided by the city of New Orleans, with the prior approval of the mayor and the city council, the board may contract with other entities for such services. Requires that the cost of such specially contracted services be paid for by the board with its funds budgeted therefor.

Proposed law authorizes the city council of New Orleans, subject to voter approval, to levy and collect, for a term not to exceed 50 years a special ad valorem tax. Provides that the tax shall be levied and collected in the same manner and at the same time as all other ad valorem taxes on property subject to taxation by the city are levied and collected. Provides that any tax levied shall be subject to the homestead exemption as provided by the constitution.

Proposed law requires that the proceeds of the tax be used solely and exclusively for the purposes and benefit of the district. Requires that the proceeds be paid over to the Board of Liquidation, City Debt, day by day as the same are collected and received by the appropriate officials of the city of New Orleans and maintained in a separate account. Further requires that the tax proceeds be paid out by the Board of Liquidation, City Debt, solely for the purposes of the district provided upon warrants or drafts drawn on the Board of Liquidation, City Debt, by the appropriate officials of the city and the treasurer of the district.

Proposed law authorizes the city of New Orleans, when requested by resolution adopted by the board, approved by a resolution of the city council, and by resolution adopted by the Board of Liquidation, City Debt, to incur indebtedness for and on behalf and for the sole and exclusive benefit of the district. Additionally authorizes the city, subject to the same procedure, to issue at one time, or from time to time, negotiable bonds, notes, bond anticipation notes, renewal notes, revenue bonds, short-term revenue bonds, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper, short-term loans, and other obligations or evidences of indebtedness. Provides that the principal of, premium if any, and interest on such debt shall be payable from the proceeds of the special tax authorized, levied, and collected pursuant to the provisions of proposed law or from any other sources available to the district. Provides that such bonds shall not constitute general obligations of the state, the parish of Orleans, or the city of New Orleans. Provides that no bonds shall be issued unless and until the maximum amount of the bonds has been approved by a majority of the electors voting thereon in the city of New Orleans in an election called for that purpose. Provides further with respect to such bonds.

Proposed law authorizes the district to acquire, to lease, to insure, and to sell real property within its boundaries. Additionally authorizes the district to advance to the city of New Orleans funds for payment for services rendered by the city pursuant to a contract between the district and the city.

Proposed law provides that if the board determines it is in the best interest of the taxpayers and that completion of public improvements and facilities in its plans will be expedited, the design and construction phases of any project may be combined. Requires the board to adopt and promulgate rules for administering design-build contracts and provides for procedures. Authorizes the board to utilize a competitive request for proposals process to select a design-build contractor. Provides procedure for such selection.

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

(Adds R.S. 33:2740.70.1)