

Regular Session, 2012

SENATE BILL NO. 699

BY SENATOR MURRAY

AIRCRAFT/AVIATION. Provides relative to the New Orleans Lakefront Airport. (gov sig)

AN ACT

To amend and reenact R.S. 38:330.12.1(A) and to enact R.S. 38:330.12 and 330.12.2, relative to the New Orleans Lakefront Airport; to provide relative to the ownership, governance, management, and maintenance of the airport; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:330.12.1(A) is hereby amended and reenacted and R.S. 38:330.12 and R.S. 38:330.12.2 are hereby enacted to read as follows:

§330.12. Ownership and management of non-flood protection functions and activities

A. Except as provided in R.S. 38:330.12.2, any facility or improvement within a levee district within the territorial jurisdiction of an authority, which facility or improvement is not directly related to providing adequate drainage, flood control, or water resources development pertaining to tidewater flooding, hurricane protection, or saltwater intrusion, that is owned or operated by a board of commissioners of the levee district, including all land, rights-of-way, servitudes, and improvements situated thereon, or connected therewith, for

1 such purpose, shall be managed and controlled by the Non-Flood Protection
2 Asset Management Authority, hereinafter referred to as the "authority",
3 without the necessity of any other act or instrument, except that for purposes
4 of the Orleans Levee District, any such facilities or improvement shall continue
5 to be owned by the Orleans Levee District. For the purpose of this Section only,
6 the authority shall be the successor to the state and the board of commissioners
7 of such levee district.

8 B.(1) The authority may enter into contracts, agreements, or cooperative
9 endeavors of any nature with a state agency, political subdivision, or other legal
10 entity or person, or any combination thereof, for the operation and maintenance
11 of any facility or improvement, which it manages or controls pursuant to
12 Subsection A of this Section.

13 (2) The authority may sell, lease, or otherwise transfer any such property
14 and perform any and all things necessary to carry out the objects of this Section,
15 provided that any such sale or transfer be for full and adequate consideration,
16 and any proceeds therefrom be paid within thirty days following the sale or
17 transfer in a ratio of eighty percent of the proceeds to the authority and twenty
18 percent of the proceeds to the members of the class established in the matter of
19 "Haspel and Davis, Milling and Planting, Co., Ltd., et al. vs. Board of Levee
20 Commissioners" Docket No. 31-357 of the Twenty-fifth Judicial District Court
21 for the Parish of plaquemines, to satisfy the outstanding debt of the Orleans
22 Levee District pursuant to the judgment dated December 11, 2000, and the
23 settlement agreement homologated therein. If the authority determines that the
24 sale, lease, or transfer of such property is appropriate, it shall first offer the
25 property to political subdivisions in the parish in which the property is located
26 and state agencies conducting operations in that parish, other than levee
27 districts, political subdivisions, or agencies responsible for flood control. If any
28 such public entity is interested in acquiring the property, the authority shall
29 evaluate proposals submitted by those entities. If no such proposal is received,

1 or if such proposals are not determined to be in the best interest of the
2 authority, the property may be offered for sale or lease as otherwise provided
3 by law.

4 C. Except as required by federal law or regulation or state constitution,
5 the expense of operating any facility or improvement referred to in Subsection
6 A of this Section, which produces revenue shall be collected by the authority
7 and, after deducting an amount for the expense of managing and controlling
8 such facility or improvement, the remaining revenues therefrom shall be
9 disbursed to the flood protection authority to the credit of the levee district in
10 which the facility or improvement is located.

11 D. The authority may otherwise provide for the implementation of this
12 Section by the adoption of rules and regulations pursuant to the Administrative
13 Procedure Act. The authority shall not be subject to the rules and regulations
14 of the Department of Transportation and Development.

15 E. No action taken pursuant to this Section or to any provision of this
16 Part shall do any of the following:

17 (1) Impair the obligation of outstanding bonded indebtedness or of any
18 other contract of any levee district.

19 (2) Impair the ability of any levee district to satisfy any outstanding
20 judgment, any legal action, or claim pending against the district on the effective
21 date of this Section.

22 §330.12.1. Non-Flood Protection Asset Management Authority; creation;
23 composition; powers, duties, functions

24 A. The Except as provided in R.S. 38:330.12.2, the Non-Flood Protection
25 Asset Management Authority, hereafter referred to as the "authority", is hereby
26 created as a political subdivision possessing full corporate power to manage, control,
27 regulate, operate, and maintain any non-flood protection facility or improvement
28 asset or function within a levee district within the jurisdiction of a flood protection
29 authority.

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§330.12.2. New Orleans Lakefront Airport functions and activities

A.(1) The New Orleans Lakefront Airport, including all land, rights-of-way, servitudes, and improvements situated thereon, or connected therewith, for such purpose, hereinafter referred to as "airport", shall be owned, managed, maintained, and controlled by the New Orleans Aviation Board, hereinafter referred to as the "NOAB", without the necessity of any other act or instrument. For the purpose of this Section only, the NOAB shall be the successor of the state, the board of commissioners of the Orleans Levee District, and the Non-Flood Protection Asset Management Authority.

(2) Notwithstanding the provisions of R.S. 38:320, ownership of the airport shall transfer from the Orleans Levee District to the NOAB on or before September 1, 2012, unless both the district and the NOAB mutually agree to delay the transfer. The transfer shall be in compliance with applicable federal law, rules, and regulations and the state constitution.

(3) Management, control, and maintenance of the airport shall transfer from the Non-Flood Protection Asset Management Authority to the NOAB on or before September 1, 2012, unless both the Non-Flood Protection Asset Management Authority and NOAB mutually agree to delay the transfer.

B.(1) The NOAB may enter into contracts, agreements, or cooperative endeavors of any nature with a state agency, political subdivision, or other legal entity or person, or any combination thereof, for the management, operation, and maintenance of the airport.

(2) The NOAB may sell, lease, or otherwise transfer any such property and perform any and all things necessary to carry out the objects of this Section.

C. No action taken pursuant to this Section or to any provision of this Part shall do any of the following:

(1) Impair the obligation of outstanding bonded indebtedness or of any other contract of the Orleans Levee District.

(2) Impair the ability of the Orleans Levee District to satisfy any outstanding judgment, any legal action, or claim pending against the district on the effective date of this Section.

(3) Be in conflict with federal law, rules, or regulations or state law.

(4) Impair the obligations of any contract entered into prior to the effective date of this Section.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

Proposed law provides relative to the New Orleans Lakefront Airport ("airport").

Present law provides that non-flood assets owned by the Orleans Levee District and managed and controlled by the Non-Flood Protection Asset Management Authority ("authority"). Proposed law retains present law except for the airport.

Proposed law provides that, except for the airport, any facility or improvement within a levee district, which facility or improvement is not directly related to providing adequate drainage, flood control, or water resources development pertaining to tidewater flooding, hurricane protection, or saltwater intrusion, that is owned or operated by a board of commissioners of the levee district, including all land, rights-of-way, servitudes, and improvements situated thereon, or connected therewith, for such purpose, shall be managed and controlled by the authority, without the necessity of any other act or instrument, except that for purposes of the Orleans Levee District, any such facilities or improvement shall continue to be owned by the levee district. Provides that the authority shall be the successor to the state and the board of commissioners of the levee district.

Provides that the authority may enter into contracts, agreements, or cooperative endeavors of any nature with a state agency, political subdivision, or other legal entity or person, or any combination thereof, for the operation and maintenance of any facility or improvement, which it manages or controls.

Authorizes the authority to sell, lease, or otherwise transfer any such property and perform any and all things necessary to carry out the objects of proposed law, provided that any such sale or transfer be for full and adequate consideration, and any proceeds therefrom be paid within 30 days following the sale or transfer in a ratio of 80% of the proceeds to the authority and 20% of the proceeds to the members of the class established in the matter of "Haspel and Davis, Milling and Planting, Co., Ltd., et al. vs. Board of Levee Commissioners" Docket No. 31-357 of the Twenty-fifth Judicial District Court for the parish

of Plaquemines, to satisfy the outstanding debt of the Orleans Levee District pursuant to the judgment dated December 11, 2000, and the settlement agreement homologated therein. If the authority determines that the sale, lease, or transfer of such property is appropriate, it shall first offer the property to political subdivisions in the parish in which the property is located and state agencies conducting operations in that parish, other than levee districts, political subdivisions, or agencies responsible for flood control. If any such public entity is interested in acquiring the property, the authority shall evaluate proposals submitted by those entities. If no such proposal is received, or if such proposals are not determined to be in the best interest of the authority, the property may be offered for sale or lease as otherwise provided by law.

Provides that except as required by federal law or regulation or state constitution, the expense of operating any facility or improvement, which produces revenue shall be collected by the authority and, after deducting an amount for the expense of managing and controlling such facility or improvement, the remaining revenues therefrom shall be disbursed to the flood protection authority to the credit of the levee district in which the facility or improvement is located.

Provides that the authority may adopt rules and regulations to implement proposed law pursuant to the APA; the authority shall not be subject to the rules and regulations of the DOTD.

Provides that no action taken pursuant to proposed law nor shall proposed law do any of the following:

1. Impair the obligation of outstanding bonded indebtedness or of any other contract of any levee district.
2. Impair the ability of any levee district to satisfy any outstanding judgment, any legal action, or claim pending against the district on the effective date of this Section.

Present law creates the Non-Flood Protection Asset Management Authority and provides for its composition, duties, and functions. Proposed law continues present law except as relative to the duties and functions of the authority with regard to the airport.

Proposed law provides that the airport shall be owned, managed, maintained, and controlled by the New Orleans Aviation Board ("NOAB"), without the necessity of any other act or instrument. Provides that for the purpose of proposed law, the NOAB shall be the successor of the state, the board of commissioners of the Orleans Levee District, and the authority.

Provides that notwithstanding present law, ownership of the airport shall transfer from the Orleans Levee District to the NOAB on or before September 1, 2012, unless both the district and the NOAB mutually agree to delay the transfer. The transfer shall be in compliance with applicable federal law, rules, and regulations and the state constitution.

Provides that the management, control, and maintenance of the airport shall transfer from the authority to the NOAB on or before September 1, 2012, unless both the authority and the NOAB mutually agree to delay the transfer.

Provides that the NOAB may:

1. Enter into contracts, agreements, or cooperative endeavors of any nature with a state agency, political subdivision, or other legal entity or person, or any combination thereof, for the management, operation, and maintenance of the airport.
2. Sell, lease, or otherwise transfer any such property and perform any and all things necessary to carry out the objects of proposed law.

Proposed law provides that no action shall be taken which would:

1. Impair the obligation of outstanding bonded indebtedness or of any other contract of the Orleans Levee District.
2. Impair the ability of the Orleans Levee District to satisfy any outstanding judgment, any legal action, or claim pending against the district.
3. Be in conflict with federal law, rules, or regulations or state law.
4. Impair the obligations of any existing contract.

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

(Amends R.S. 38:330.12.1(A); adds R.S. 38:330.12 and 330.12.2)