

Regular Session, 2012

SENATE BILL NO. 699

BY SENATOR MURRAY

SPECIAL DISTRICTS. Reenacts expired provisions of law relative to non-flood assets managed by the Non-Flood Asset Management Authority. (gov sig)

AN ACT

To enact R.S. 38:330.12, relative to the New Orleans Lakefront Airport and other such non-flood protection assets, functions, and activities; to provide relative to the ownership, governance, management, and maintenance of the airport and other such non-flood assets, functions, and activities; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:330.12 is hereby enacted to read as follows:

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

A. 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 thereto, for such purpose, shall be managed and controlled by the Non-Flood Protection Asset Management

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

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

12 (2) The authority may sell, lease, or otherwise transfer any such property
13 and perform any and all things necessary to carry out the objects of this Section,
14 provided that any such sale or transfer be for full and adequate consideration,
15 and any proceeds therefrom be paid within thirty days following the sale or
16 transfer in a ratio of eighty percent of the proceeds to the authority and twenty
17 percent of the proceeds to the members of the class established in the matter of
18 "Haspel and Davis, Milling and Planting, Co., Ltd., et al. vs. Board of Levee
19 Commissioners" Docket No. 31-357 of the Twenty-fifth Judicial District Court
20 for the parish of Plaquemines, to satisfy the outstanding debt of the Orleans
21 Levee District pursuant to the judgment dated December 11, 2000, and the
22 settlement agreement homologated therein. If the authority determines that the
23 sale, lease, or transfer of such property is appropriate, it shall first offer the
24 property to political subdivisions in the parish in which the property is located
25 and state agencies conducting operations in that parish, other than levee
26 districts, political subdivisions, or agencies responsible for flood control. If any
27 such public entity is interested in acquiring the property, the authority shall
28 evaluate proposals submitted by those entities. If no such proposal is received,
29 or if such proposals are not determined to be in the best interest of the

1 authority, the property may be offered for sale or lease as otherwise provided
2 by law.

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

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

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

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

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

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

The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Murray (SB 699)

Present law [R.S. 38:330.12] provided that any facility or improvement within levee districts which compose the Southeast Flood Protection Authority - East and Southeast Flood Protection Authority-West which was not directly related to providing adequate drainage, flood control, or water resources development pertaining to tidewater flooding, hurricane protection, or saltwater intrusion, and which is owned or operated by a board of commissioners of the levee district must be managed and controlled by the Non-Flood Asset Management Authority, except that for purposes of the Orleans Levee District, any such facilities or improvement were to be continued to be owned by such levee district.

The authority was authorized to 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 the facilities or improvements.

The authority was further authorized to sell, lease, or otherwise transfer any such property and perform any and all things necessary to carry out the objects of the present law, provided that the sale or transfer would have been for full and adequate consideration, and any proceeds therefrom be paid in a ratio of 80% to the authority and 20% 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 25th JDC 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.

The Authority was first required to 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 no such proposal was received, or if the proposals were not determined to be in the best interest of the Authority, the property may have been offered for sale or lease as otherwise provided by law.

The Authority was required to disburse revenues collected from the operation of the non-flood assets remaining after deducting the expenses of managing and controlling them to the Flood Protection Authority, to the credit of the levee district in which the facility or improvement was located except as otherwise required by federal law or regulation or state constitution.

The Authority was forbidden to 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.

The Authority was authorized to adopt rules and regulations to implement the law pursuant to the APA and the Authority was not subject to the rules and regulations of the DOTD.

Present law terminated on January 1, 2012.

Proposed law re-enacts present law R.S. 38:330.12 as set forth above.

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

(Adds R.S. 38:330.12)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways, and Public Works to the original bill

1. Deleted provisions that the airport was to be owned, managed, maintained, and controlled by the New Orleans Aviation Board.

Senate Floor Amendments to engrossed bill

1. Make technical changes.