

Regular Session, 2012
HOUSE BILL NO. 924
BY REPRESENTATIVE WESLEY BISHOP

ACT No. 606

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AN ACT

To enact R.S. 33:2740.70.1, relative to Orleans Parish; to create the Downman Road Economic Development District within the parish; to provide relative to the boundaries, purpose, and powers and duties of the district; to provide relative to district funding, including the authority to levy taxes; 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. 33:2740.70.1 is hereby enacted to read as follows:

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

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

B. The boundaries of the district shall encompass the area included within the following perimeter: Jourdan Road on the west, Hayne Boulevard on the north, Downman Road on the east, and Old Gentilly Road on the south. The boundaries of the district shall also include all of the territory included within the geographic boundaries of the New Orleans Lakefront Airport.

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) As soon as practicable after the effective date of this Section, the board
 27 shall meet and elect from its number a chairman, a vice chairman, a treasurer, and
 28 such other officers as it may deem appropriate. A secretary of the board may be
 29 selected from among the members or may be otherwise selected or employed by the
 30 board. The duties of the officers shall be fixed by bylaws adopted by the board.

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

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

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

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

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

19 (a) To sue and to be sued.

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

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

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

25 (e) To enter into contracts, agreements, or cooperative endeavors with the
26 state and its political subdivisions or political corporations and with any public or
27 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 (5) Any property owned, operated, or administered by the board of
 5 commissioners of the Port of New Orleans shall be excluded from the district and not
 6 subject to the jurisdiction of the district.

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

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

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

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

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

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

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

1 (c) The proceeds derived from the sale of all such bonds shall be paid over
2 to the appropriate officials of the city of New Orleans and shall be disbursed solely
3 for the purposes and benefit of the district. All such bonds shall be sold by the Board
4 of Liquidation, City Debt, and shall bear such rate or rates of interest, and shall,
5 except as otherwise specifically provided in this Section, be in such form, terms, and
6 denominations, be redeemable at such time or times at such price of or prices, and
7 payable at such times and places, within a period of not exceeding fifty years from
8 the date thereof, as the Board of Liquidation, City Debt, shall determine.

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

21 (3) The resolution of the Board of Liquidation, City Debt, authorizing the
22 issuance and sale of such bonds and fixing the form and details thereof, may contain
23 such other provisions, not inconsistent nor in conflict with the provisions of this
24 Section, as it may deem to be necessary or advisable to enhance the marketability
25 and acceptability thereof by purchasers and investors, including but without limiting
26 the generality of the foregoing, covenants with bondholders setting forth conditions
27 and limitations on the issuance of additional bonds constituting a lien and charge on
28 the special tax levied on real property within the district pari passu with bonds

1 theretofore issued and outstanding, and the creation of reserves for the payment of
2 the principal of and interest on such bonds. These bonds and the interest thereon are
3 exempt from all taxation levied for state, parish, or municipal or other local
4 purposes; and savings banks, tutors of minors, curators of interdicts, trustees, and
5 other fiduciaries are authorized to invest the funds in their hands in such bonds.

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

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

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

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

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

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

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

25 (b) Public announcement procedures for solicitation of interested
26 design-build competitors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (vii) Remedies for default.

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

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

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____