

Regular Session, 2011

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.

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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

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

9 Be it enacted by the Legislature of Louisiana:

10 **Commission on Public Retirement**

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 12 Revised Statutes of 1950, comprised of R.S. 11:301 through 309, is hereby repealed in its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

14 **Compensation Review Commission**

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 16 comprised of R.S. 42:1481 through 1485, is hereby repealed in its entirety.

17 **Emergency/Disaster Medicine Review Panel**

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 R.S. 29:735.4 is hereby repealed in its entirety.

19 **Louisiana Governor's Mansion Commission**

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 21 comprised of R.S. 25:1011 through 1016, and R.S. 36:4(T) are hereby repealed in their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

23 **Hurricane Katrina Memorial Commission**

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 25 comprised of R.S. 25:1301 through 1307, and R.S. 36:4(B)(1)(o) are hereby repealed in their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

27 **Louisiana Wetlands Conservation and Hurricane Protection Tourist Center**
 28 **Commission**

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 30 comprised of R.S. 25:1321 through 1325, is hereby repealed in their entirety.

1 **Small Business Entrepreneurship Commission**

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 R.S. 36:4.1(D)(17) and R.S. 51:943 are hereby repealed in their entirety.

3 **Louisiana Technology Innovations Council**

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

7 **Youth Enhanced Services Consortium**

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

10 **Offshore Terminal Authority**

11 Section 10.(A) R.S. 34:3101(B)(7), 3106(A), 3107, 3108(A), 3109(C)(9), 3112(G),
12 3112.1(A)(8) and (C), 3113(B), (E), (G), (H), and (J)(4), 3115(A), and 3116(B), (C), and (D)
13 are hereby amended and reenacted to read as follows:

14 §3101. Object; purpose of chapter

15 * * *

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

17 * * *

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

24 * * *

25 §3106. Annual reports; budget unit

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

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

3 * * *

4 §3107. Executive director; selection; duties; employees; compensation

5 A. The ~~board of commissioners shall select~~ governor shall appoint an
6 executive director who shall exercise all control over all executive functions and the
7 general operation of the authority. The authority may ~~either directly or through their~~
8 its executive director employ such other agents and employees permanent and
9 temporary, as it may require and shall determine their qualifications, duties, and
10 compensation. The executive director shall serve at the pleasure of the ~~board.~~
11 governor. All employees of the authority shall be responsible to the executive
12 director who shall organize the personnel employed by the authority in the most
13 efficient manner to accomplish the purpose of the authority as provided in this
14 Chapter and by regulations established by the ~~authority's board~~ authority, all to be
15 accomplished in accordance with applicable civil service laws, rules, and regulations.

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

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

26 §3108. Acquisition of sites; lease of state owned lands and water bottoms

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

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

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

7 * * *

8 §3109. Powers

9 * * *

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

12 * * *

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

26 * * *

27 §3112. Bonds; procedure for issuance

28 * * *

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

1 Development and shall be of such series, bear such date or dates, mature at such time
 2 or times not exceeding forty years from their respective dates, bear interest at such
 3 rate or rates per annum, payable at such time or times, be in such denominations, be
 4 in such form, either coupon or full registered without coupons, carrying such
 5 registration and exchangeability privilege, be payable in such medium of payment
 6 and at such place or places, be subject to such terms of redemption not exceeding one
 7 hundred five percent of the principal amount thereof, and be entitled to such priority
 8 on the revenues of the authority as such resolution or resolutions may provide. The
 9 bonds shall be signed by such officers as the authority shall determine, and coupon
 10 bonds shall have attached thereto interest coupons bearing the facsimile signatures
 11 of such officer or officers of the authority as it shall designate. Any such bonds may
 12 be issued and delivered, notwithstanding that one or more of the officers signing
 13 such bonds or the officers whose facsimile signature or signatures may be upon the
 14 coupons shall have ceased to be such officer or officers at the time such bonds shall
 15 actually have been delivered. Said bonds shall be sold for not less than par and
 16 accrued interest to the highest bidder at a public sale after advertisement by the
 17 authority at least seven days in advance of the date of sale, in newspapers or financial
 18 journals published at such places as the authority may determine, reserving to the
 19 authority the right to reject any and all bids and to readvertise for bids. If, after
 20 advertisement as hereinabove provided, no bids are received, or if such bids as are
 21 received are considered in the discretion of the ~~board of commissioners of the~~
 22 authority to be unsatisfactory, then and in that event the ~~board of commissioners~~
 23 authority may publicly negotiate for the sale of such bonds without further
 24 advertisement. No proceedings in respect to the issuance of any such bonds shall be
 25 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

1 and to carry out the purposes of this Chapter and promote industrial development in
 2 the state, the authority is authorized, with approval of the State Bond Commission,
 3 to issue its revenue bonds and notes, herein collectively called revenue bonds, as
 4 hereinafter provided, to finance or assist in the financing of the development,
 5 acquisition, and/or construction of deepwater ports and offshore terminal facilities
 6 licensed by the Secretary of Transportation of the United States of America pursuant
 7 to the Deepwater Port Act of 1974, as the same may be amended or supplemented
 8 from time to time, and to be emplaced within the coastal waters of Louisiana or
 9 seaward thereof and all directly related storage facilities and all functionally related
 10 and subordinate facilities and equipment therefor located offshore or onshore. The
 11 revenue bonds shall be authorized, secured, and have the details and characteristics
 12 set out hereunder.

* * *

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

* * *

20 C. Construction of Section. The powers and rights conferred by this Section
 21 shall be in addition and supplemental to the powers and rights conferred by any other
 22 general or special law. This Section does and shall be construed to provide a
 23 complete and additional method for the doing of the things authorized thereby.
 24 Neither the making of contracts nor the issuance of revenue bonds or refunding
 25 revenue bonds or other obligations pursuant to the provisions of this Section need
 26 comply with the requirements of any other state law applicable to the making of
 27 contracts and the issuance of the revenue bonds or other obligations for the financing
 28 of any revenue bond project or projects undertaken pursuant to this Section, except
 29 as herein provided. In accordance with Title 36 of the Louisiana Revised Statutes
 30 of 1950, the secretary of the Department of Transportation and Development is

1 vested with and is hereby granted the right, power, and authority to do, perform, and
 2 exercise for and on behalf of the authority ~~and its board of commissioners~~, all acts
 3 and things required to be done and performed in connection with the authorization
 4 and issuance of revenue bonds under this Section. No proceedings, notice, or
 5 approval shall be required for the issuance of any revenue bonds or any instrument
 6 as security therefor, except as provided in this Section. The provisions of this
 7 Section shall be liberally construed for the accomplishment of its purposes.

8 * * *

9 §3113. Environmental protection plan

10 * * *

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

15 * * *

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

20 * * *

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

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

9 * * *

10 J. The environmental protection plan shall:

11 * * *

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

23 * * *

24 §3115. Remedies and enforcement

25 In addition to all other rights herein granted, the authority and the courts shall
 26 have the power to assure compliance with the purposes of this chapter as follows:

27 A. If the authority's ~~board of commissioners or~~ executive director has
 28 reasonable cause to believe that there exists a violation of this ~~chapter~~ Chapter or of
 29 the authority's rules and regulations, which could result in irreparable injury to the
 30 authority's operations, the environment, or the public interest, the authority may

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

4 * * *

5 §3116. Coordination and cooperation

6 * * *

7 B. The ~~board of commissioners~~ executive director shall take affirmative
8 steps to fully coordinate all aspects of the authority development program with the
9 ~~Louisiana Advisory Commission on Coastal and Marine Resources (Act No. 35 of~~
10 ~~1971) or its successor group, which is charged with the development of a coastal~~
11 ~~zone management plan for the state~~ secretary of the Department of Natural
12 Resources or his designee charged with the development of the coastal zone
13 management plan.

14 C. The ~~board of commissioners~~ executive director shall take affirmative
15 steps to ~~insure~~ ensure that the authority development program is coordinated into the
16 planning programs of other modes of transportation, to include rail, road, waterway,
17 air, and pipeline, so that there is a long-term and orderly pursuit of transportation
18 services in the coastal zone which are interrelated and coordinated so as to achieve
19 the most efficient and economical transportation program that is feasible and that
20 will be least destructive of other values in the state.

21 D. The ~~board of commissioners~~ executive director shall ~~insure~~ ensure that
22 the appropriate federal agencies which are required by federal law to plan or regulate
23 transportation facilities or programs are consulted regularly and are fully involved
24 in the authority development program where appropriate.

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

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

28 * * *

1 L. The Offshore Terminal Authority is transferred to and hereafter shall be
2 within the Department of Transportation and Development, as provided ~~in R.S.~~
3 ~~36:913~~ by law.

4 * * *

5 §913. Transfer; certain appointing authority retained

6 A. The agencies transferred by the provisions of R.S. ~~36:509(L) and 629(D)~~
7 36:629(D) shall be transferred as provided in this Part except that each agency so
8 transferred shall continue to appoint its own director and assistant director or
9 personnel to fill comparable positions as provided by law.

10 * * *

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

13 **Louisiana Soybean and Grain Research and Promotion Board**

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

15 §3552. Louisiana Soybean and Grain Research and Promotion Board; creation and
16 organization

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

1 Louisiana Cotton and Grain Association shall submit the names of three persons who
2 produce wheat, corn, or grain sorghum to the governor and he shall appoint two
3 persons from these nominees to serve on the board. Every fourth year the
4 aforementioned organizations shall submit the names of nominees to the governor and
5 succeeding boards shall be appointed by the governor in the same manner, giving
6 equal representation to each organization in the appointment of the eight members
7 who are practical soybean producers.
8 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____