

Regular Session, 2010

HOUSE BILL NO. 1410

BY REPRESENTATIVES MICHAEL JACKSON AND LEGER

TRANSPORTATION: Creates the La. Intrastate Rail Compact in DOTD, relative to powers, duties, responsibilities, and functions of the compact

1 AN ACT

2 To enact Chapter 35 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 48:2171 through 2189, relative to the development of transportation
4 infrastructure; to authorize the creation of the Louisiana Intrastate Rail Compact; to
5 provide for the powers and duties of such compact; to authorize the compact to issue
6 bonds and raise revenues subject to voter approval; to provide the mechanism for
7 entities to become a part of the Louisiana Intrastate Rail Compact under certain
8 circumstances; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 35 of Title 48 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 48:2171 through 2189, is hereby enacted to read as follows:

12 CHAPTER 35. THE LOUISIANA INTRASTATE RAIL COMPACT

13 §2171. Purpose; findings; determinations

14 A. The development, improvement, expansion, and maintenance of an
15 efficient, safe, and well-maintained system of railways, transitways, and other
16 transportation facilities that promote mobility are essential to Louisiana's economic
17 health and are intended to act as a system that provides a basis for business and
18 industry to compete cost effectively on a regional, national, and global scale in order
19 to provide a high quality of life for the people of this state.

1 B. The expansion of local and regional transportation facilities is vital to the
2 growth and development of the parishes and the state.

3 C. Public sources of revenues, including federal funding, that provide an
4 efficient transportation system have not kept pace with the state's growing population
5 and transportation needs. Therefore, available alternative sources of revenue
6 generation should be utilized to supplement currently available public funding in
7 order to provide these needed transportation facilities.

8 D. Since public funding sources are not providing the state with sufficient
9 revenues to meet all of its transportation needs, parishes and municipalities are
10 hereby encouraged to utilize public private partnerships as an additional means to
11 assist in financing improvements to the state transportation system, especially the
12 development of a rail travel choice in Louisiana in order to meet regional and local
13 transportation needs.

14 §2172. Definitions

15 Unless the text clearly indicates otherwise, the following words or phrases
16 shall have the following meanings:

17 (1) "Act" means the Louisiana Intrastate Rail Compact Act.

18 (2) "Board" means the board of directors of a compact.

19 (3) "Bonds" means bonds, notes, certificates, obligations, or any other
20 evidence of indebtedness or evidence of borrowed money issued or entered into by
21 a compact to finance a project.

22 (4) "Compact" means any state transportation railway system formed
23 pursuant to this Chapter or any successor thereto.

24 (5) "Department" means the Department of Transportation and Development
25 or any successor agency thereto.

26 (6) "Municipal-street system project" means any proposed capital project
27 involving the acquisition of land for, or the acquisition, construction, reconstruction,
28 improvement, installation, extension, development, or equipping of real property or
29 related facilities as part of the rail service program.

1 (7) "Parish-related project" means any proposed capital project involving the
2 acquisition of land for, or the acquisition, construction, reconstruction, improvement,
3 installation, extension, development, or equipping of real property as part of a parish
4 road railway or other transportation system and related facilities to the railway
5 program.

6 (8) "Project" means any capital project undertaken pursuant to this Chapter
7 involving the acquisition of real property for, or the acquisition, construction,
8 reconstruction, improvement, extension, installation, development, or equipping of
9 a railway, related facilities, or any portion thereof, including a state-designated
10 passenger rail project.

11 (9) "Project costs" means all costs of acquisition and construction; the cost
12 of acquisition of all land, rights-of-way, servitudes, property rights, easements, and
13 interests acquired, or to be acquired, by a compact for such a railway program and
14 related construction; the cost of demolishing or removing any buildings or structures
15 on land so acquired, including the cost of acquiring any lands to which such
16 buildings or structures may be moved; the cost of all machinery and equipment;
17 financing charges, interest charges, interest prior to and during construction; cost of
18 traffic estimates and of engineering and legal expenses; plans, specifications, and
19 surveys; estimates of cost and of revenues; other expenses necessary or incidental
20 to determining the feasibility or practicability of constructing a railway project;
21 administrative expenses and such other expenses as may be necessary or incidental
22 to the construction of a project; the financing of such railway construction and the
23 placing of a rail transport project in operation. Any obligation or expenses hereafter
24 incurred by the department, with the approval of a compact, for traffic surveys,
25 borings, preparation of plans and specifications, and other engineering services in
26 connection with the construction of a project shall be regarded as part of the cost of
27 the project and shall be reimbursed to the department.

28 (10) "Public utility facilities" means tracks, pipes, signals, railroad grade-
29 crossing protection at vehicular crossings, stations, parking facilities mains, conduits,

1 cables, wires, towers, poles, railroads, and other equipment and appliances which are
2 either publicly or privately owned.

3 (11) "Real property" means lands, waters, rights in lands or waters,
4 structures, franchises, and interests in land, including lands under water, riparian
5 rights, property rights in air space or subsurface space, and any and all other things
6 and rights usually included within the said term, including any and all interests in
7 such property less than full title, such as easements and servitudes, rights-of-way,
8 uses, leases, licenses, and all other incorporeal hereditaments and every estate,
9 interest or right, legal or equitable, whether permanent or temporary.

10 (12) "Revenues" means:

11 (a) All income, revenues, and receipts derived or to be derived from a project
12 owned, leased, maintained, operated, or otherwise received by a compact from a
13 project, or from contracts or agreements relating to a project, including but not
14 limited to lease or sublease agreements, sale agreements, security agreements, loan
15 agreements, pledge agreements, or other financing agreements between that compact
16 and any entity, or from any other sources whatsoever.

17 (b) Monies generated by way of contract, pledge, donation, or bequest.

18 (c) Monies generated by taxes of a public entity which are authorized to be
19 assessed and levied by the legislature.

20 (13) "State" means the state of Louisiana.

21 (14) "State-designated project" means any proposed capital project involving
22 the acquisition of land for, or the acquisition, construction, reconstruction,
23 improvement, installation, extension, development, or equipping of real property as
24 part of the state transportation system, including railway projects and related
25 facilities.

26 (15) "State transportation system" means all roadways, highways, bridges,
27 or tunnels which constitute the state rail transportation system.

28 (16) "Transitway" or "railway" means any fixed guide way facility involving
29 the use of rail or dedicated transit lines.

1 §2173. Creation of compacts; jurisdiction

2 Any parish or municipality, or two or more contiguous parishes,
3 municipalities, or any combination of contiguous parishes and municipalities are
4 hereby authorized to form and incorporate a quasi -governmental entity compact.
5 Any such compact created pursuant to this Chapter shall be considered and treated
6 as a body politic and corporate established for the public purposes enumerated
7 herein. The boundaries of the compact shall be coextensive with the territorial
8 boundaries of the parish or parishes or municipality or municipalities which establish
9 such compact. The compact shall have the power to adopt bylaws containing such
10 terms and provisions as the directors of the compact shall deem necessary or
11 convenient to further carry out its purposes, provided that nothing therein may
12 contravene any of the provisions of this Chapter.

13 §2174. Liability

14 Neither the state nor any state agency, parish, municipality, district, or any
15 other political subdivision or other public entity shall be subject to any claims,
16 liabilities, costs, expenses, or causes of action for any personal injury or damage to
17 property arising out of the construction, operation, or maintenance of any project, or
18 which may happen to occur on any railway, if such incident giving rise thereto
19 occurs prior to transfer and reversion of ownership of any project from a compact
20 created hereunder to the state or appropriate parish or municipality in accordance
21 with the provisions of this Chapter. Should any suit or other action be filed against
22 a compact created hereunder prior to reversion of a project, such reversion shall be
23 effected as provided in this Chapter, but the compact so joined by such action shall
24 continue in existence as provided in R.S. 48:2188(A). No individual member,
25 officer, director, or employee of a compact shall be liable personally for any such
26 claims, liabilities, costs, expenses, or causes of action in any event.

27 §2175. Directors

28 A. The board of the compact shall consist of such directors as are specified
29 in the articles of incorporation of the compact, provided the board shall consist of at

1 least five directors, including the Louisiana designee to the Southern Rail Corridor
2 to be appointed by the chairman of the Southern Rail Corridor.

3 B. All directors, other than the chairman of the metropolitan planning
4 organization, shall be appointed by the parish or municipality forming the compact,
5 if there is only one. If more than one parish, municipality, or any combination of
6 parishes and municipalities is involved in forming a compact, each parish or
7 municipality shall appoint an equal number of directors.

8 C. The compact shall elect from its directors a chairman, a vice chairman,
9 and a secretary-treasurer who shall serve one-year terms. Where more than one
10 parish or municipality is involved in the formation of an compact, the chairmanship
11 for each successive term shall be alternated among the representatives of all
12 participating parishes and municipalities.

13 D. Any vacancy which occurs prior to the expiration of a term for which a
14 member of the board has been appointed shall be filled by appointment in the same
15 manner as the original appointment for the unexpired term as set forth in the articles
16 of incorporation or bylaws of the compact.

17 E. Upon the effective date of an appointment, or as soon as practicable
18 thereafter, each appointed member shall enter upon their duties. A member shall
19 hold office until a successor has been appointed. Any member of the compact is
20 eligible for reappointment.

21 F. All directors shall have equal status, and all directors shall have a vote.

22 G. The presence of a majority of the board shall constitute a quorum, and the
23 vote of a majority present and voting shall be necessary for any action taken by the
24 board.

25 H. A vacancy on the board shall not impair the right of a quorum to exercise
26 a right or perform a duty of the board.

27 §2176. Compensation of directors

28 Directors of the board shall not be entitled to any salary for services, but each
29 member shall be reimbursed for actual expenses necessarily incurred in the

1 performance of all duties in connection with the business of a compact in compliance
2 with Policy and Procedure Memorandum 49, as promulgated by the division of
3 administration, as amended and revised and may, if authorized by the board, be
4 entitled to a per diem when conducting official business, not to exceed seventy-five
5 dollars per day.

6 §2177. Conflict of interest; ethics code

7 Any compact created pursuant to this Chapter, and all directors and officers
8 thereof, shall be subject to the Code of Governmental Ethics (R.S. 42:1101 et seq.).

9 §2178. Right of public agencies to material

10 Any compact created pursuant to this Chapter shall be subject to and fully
11 comply with the Public Records Law (R.S. 44:1 et seq.) and the Open Meetings Law
12 (R.S. 42:4.1 et seq.) of the state. The proceedings and documents of a compact shall
13 be public record. All reports, maps, or other technical documents produced in whole
14 or in part by a compact may be utilized by the department of any other public agency
15 in any manner that they deem necessary and advisable in the conduct of their duties.

16 §2179. Establish feasibility; prior written approval

17 A. A compact authority created and established pursuant to this Chapter
18 may construct transit way facilities along a transit corridor within the state under the
19 terms and conditions set forth in this Chapter, with the prior express written consent
20 of the affected governing bodies within the geographic boundaries of the authority
21 after public hearing. Said facilities must be part of the approved transportation plan
22 and program of the department and the local metropolitan planning organization,
23 where applicable.

24 B. Prior to the initiation of environmental impact statements and preliminary
25 engineering, feasibility studies must first be conducted to substantiate project need
26 and justification.

27 §2180. General grant of powers and duties

28 In addition to having all of the powers granted it by virtue of its being a
29 nonprofit corporation created pursuant to the Louisiana Nonprofit Corporation Law,

1 each compact may exercise all additional powers necessary, appurtenant, convenient,
2 or incidental to the carrying out of its purposes, including but not limited to the
3 following rights and powers:

4 (1) To adopt and amend bylaws, regulations, and procedures for the
5 governance of its affairs and the conduct of its business and to designate an official
6 journal which shall be a newspaper of general circulation within the geographical
7 boundary of the compact.

8 (2) To adopt, use, and alter at will an official seal.

9 (3) To construct, reconstruct, maintain, improve, install, extend, develop,
10 equip, repair, operate, own, and lease projects within the geographic boundaries of
11 the compact in the manner to be determined by the compact, including in segments,
12 phases, or stages, and all rights-of-way and to pay all project costs in connection
13 therewith.

14 (4) To sue and be sued in its own name, plead, and be impleaded; however,
15 any and all actions at law or in equity against the compact shall be brought in the
16 parish where the cause of action arises, and if land is involved, including
17 condemnation proceedings, suit shall be brought in the parish where the land is
18 situated.

19 (5) To fix, revise, and adjust, from time to time, fees, and charges in
20 connection with each project sufficient to pay all maintenance, operation, debt
21 service and reserve or replacement costs, and other necessary or usual charges and
22 to regulate speed limits on the railway transportation system.

23 (6) To contract with any person, partnership, association, or corporation
24 desiring the use of any part of a project, including the rights-of-way adjoining the
25 paved portion, for placing thereon telephone, fiber optic, telegraph, electric light, or
26 power lines, gas stations, garages, and restaurants, or for any other purpose, and to
27 fix the terms, conditions, rents, and rates of charges for such use. Any utilities which
28 are placed within the right-of-way shall be loadable by the one-call system and the
29 utilities shall place locator strips on any buried objects. The contract or lease shall

1 require the removal at the expense of the lessee of any utilities or other obstructions
2 placed within the right-of-way at the request of such private utility owner when
3 expansion of the rail transportation facility requires such removal.

4 (7) To acquire, hold, and dispose of real and personal property in the
5 exercise of its powers and the performance of its duties under this Chapter in
6 accordance with existing state law.

7 (8) To acquire in the name of the compact by purchase, gift, transfer,
8 foreclosure, lease, or otherwise, including rights or easements, or by the exercise of
9 the power of eminent domain in the manner hereinafter provided, such public or
10 private lands, including public parks, playgrounds or reservations, or parts thereof
11 or rights therein, rights-of-way, property rights, easements, and interests, as it may
12 deem necessary for carrying out the provisions of this Chapter. Eminent domain
13 shall be used for the sole purpose of constructing a railway transportation system and
14 for the other public purposes set forth in this Chapter, and not for the exercise of, or
15 accommodation for, private development interests, including but not limited to
16 service stations, food marts, restaurants, truck stops, or other private enterprises.

17 (9) To hold, sell, assign, lease, or otherwise dispose of any real or personal
18 property or any interest therein; to release or relinquish any right, title, claim, lien,
19 interest, easement, or demand however acquired, including any equity or right of
20 redemption in property foreclosed by it; to take assignments of leases and rentals;
21 proceed with foreclosure actions; or take any other actions necessary or incidental
22 to the performance of its corporate purposes.

23 (10) To designate the location, and establish, limit, and control points of
24 ingress and egress for each project as may be necessary or desirable in the judgment
25 of the compact to ensure the proper operation and maintenance of such project, and
26 to prohibit entrance to such project from any point or points not so designated.
27 Creation of new points of ingress and egress or substantial reconstruction or redesign
28 of the same shall be made only after public hearing. Where the state railway

1 transportation system is affected, the concurrence of the department shall be obtained
2 for any such matters set forth in this Paragraph.

3 (11) In all cases where parish, municipal, or other public roads are affected
4 or severed, the compact is hereby empowered and required to move and replace the
5 same with equal or better facilities, and all expenses and resulting damages, if any,
6 shall be paid by the compact.

7 (12) To enter, or authorize its agents to enter, upon any lands, waters, and
8 premises within the geographic boundaries of the compact for the purpose of making
9 surveys, soundings, drillings, and examinations as it may deem necessary or
10 appropriate for the purposes of this Chapter, and such entry shall not be deemed a
11 trespass or unlawful. The compact shall make reimbursement for any actual
12 damages resulting to such lands, waters, and premises as a result of such activities.

13 (13) To procure liability, casualty, and other insurance in such amount or
14 amounts appropriate to the size of the project, as determined by the board, insuring
15 the compact against all losses, risk, and liability arising out of the construction,
16 operation, maintenance, and ownership of any project.

17 (14) To apply for, receive, and accept subventions, grants, loans, advances,
18 and contributions from any source of money, property, labor, or other things of
19 value, to be held, used, and applied for its corporate purposes.

20 (15) To open accounts at financial institutions as necessary for the conduct
21 of its business and to invest any funds held in reserves or sinking funds, or any funds
22 not required for immediate disbursement in such investments as may be provided in
23 any financing document relating to the use of such funds, or, if not so provided, as
24 the board may determine, subject to compliance with state laws relative to
25 investments by political subdivisions.

26 (16) To borrow money and issue bonds for any corporate purpose, including
27 the development, construction, or financing of any project which the compact is
28 authorized to acquire or construct, including all costs in connection with and
29 incidental to such acquisition or construction and the financing thereof.

1 (17) To enter into contracts and agreements and execute all instruments
2 necessary or convenient thereto for accomplishing the purposes of this Chapter.
3 Such contracts and agreements may include, without limiting the foregoing,
4 construction agreements, purchase or acquisition agreements, loan or lease
5 agreements, partnership agreements, including limited partnership agreements, joint
6 venture, participation agreements, or loan agreements with leasing corporations or
7 other financial institutions or intermediaries.

8 (18) To enter into agreements with a public or private entity, to permit the
9 entity, independently or jointly with the compact, to construct, maintain, repair, or
10 operate projects, and to authorize the investment of public and private money to
11 finance such projects, subject to compliance with state law relative to use of public
12 funds.

13 (19) To employ consultant engineers, attorneys, accountants, construction
14 and financial experts, superintendents, managers, and such other employees and
15 agents as may be necessary for the accomplishment of its corporate purposes, and to
16 fix their compensation.

17 (20) To exercise the power of eminent domain in accordance with general
18 law, or at the option of the compact, Part XII of Chapter 1 of Title 48 of the
19 Louisiana Revised Statutes of 1950, and the provisions relating to acquisition of
20 property prior to judgment found therein, provided that any property so acquired by
21 a compact which is not used for an authorized public purpose of the compact within
22 three years of such acquisition shall be reconveyed by the compact to the prior
23 owners thereof at current market value. Upon refusal or failure to accept
24 reconveyance of such property by the prior owner, the compact may use or dispose
25 of such property as provided for in this Chapter.

26 (21) To do all acts and things necessary or convenient for the powers granted
27 to it by law.

1 §2181. State-designated projects; department approvals

2 A. A compact may, upon obtaining the approval of the Department of
3 Transportation and Development undertake a state-designated project as a project
4 under this Chapter.

5 B. Any portion of a project which would (1) extend beyond the geographic
6 boundaries of a compact, or (2) interconnect with or otherwise directly affect the
7 operation of any portion of the state railway transportation system or any state-
8 designated project, shall be subject to Department of Transportation and
9 Development approval.

10 C. Notwithstanding any other law to the contrary, specifically including but
11 not limited to the Louisiana Expressway Law (R.S. 48:1251 et seq.), any compact
12 organized pursuant to the provisions of this Chapter shall have full power to carry
13 out all of the powers and duties set forth in this Chapter, without the necessity of
14 obtaining the approval or consent of the state, or any state agency, political
15 subdivision, district, authority, or other public entity except as expressly provided
16 for in this Chapter.

17 §2182. Acquisition of lands and property

18 A. For the purposes of this Chapter, a compact may acquire private or public
19 property and property rights, including rights of access, air, view, and light, by gift,
20 devise, purchase, or condemnation by eminent domain proceedings, as the compact
21 may deem necessary for any of the purposes of this Chapter, including but not
22 limited to any lands reasonably necessary for securing applicable permits, areas
23 necessary for management of access, borrow pits, drainage ditches, water retention
24 areas, rest areas, placement access for landowners whose access is impaired due to
25 the construction of a project, and replacement rights-of-way for relocated rail and
26 utility facilities for existing, proposed, or anticipated transportation facilities in the
27 transportation corridor designated by the compact.

28 B. In the acquisition of land and property, a compact may acquire an entire
29 lot, block, or tract of land, if, by so doing, the acquisition costs to the compact will

1 be equal to or less than the cost of acquiring only that portion of the property thereof
2 necessary for the project. This Subsection is a specific recognition that this means
3 of limiting the rising costs of such property acquisition is a public purpose and that,
4 without this limitation, the viability of many public projects will be threatened. To
5 that end, the provisions of R.S. 48:2180(20), regarding reconveyance of such excess
6 portion shall not apply except in the case of the exercise of a compact of its right of
7 eminent domain.

8 C. A compact may sell, lease, or otherwise dispose of all or any portion of
9 a project, provided that the sale, lease, or other disposition of a state-designated
10 project shall require department approval. Notwithstanding any law to the contrary,
11 any surplus property may be sold in accordance with procedures adopted by the
12 compact that maximize the price received for such property.

13 D. The right of eminent domain conferred by this Chapter must be exercised
14 by each compact in the manner provided by state law.

15 E. When a compact acquires property for a project, it is not subject to any
16 liability imposed by pre-existing conditions. This Subsection does not, however,
17 affect the rights or liabilities of any past or future owners of the acquired property,
18 nor does it affect the liability of any governmental entity for the results of its actions
19 which create or exacerbate a pollution source. The compact and the Louisiana
20 Department of Environmental Quality may enter into interagency agreements for the
21 performance, funding, and reimbursement of the investigative and remedial acts
22 necessary for property acquired by the compact.

23 §2183. Public utilities

24 A. A compact shall have the power to make reasonable regulations for the
25 installation, construction, maintenance, repair, renewal, relocation, and removal of
26 any public utility, railroad, vehicular crossings of railroads, pipeline company, or
27 other entity, in, on, along, over, or under a project. Whenever a compact shall
28 determine that it is necessary that any public utility facilities which now are, or
29 hereafter may be, located in, on, along, over, or under a project should be relocated

1 in such project, or should be removed from such project, or should be carried along
2 or across the project by grade separation, the owner or operator of such facilities
3 shall relocate or remove the same in accordance with the order of the compact;
4 however, the cost and expenses of such relocation or removal or grade separation,
5 including the cost of installing such facilities in a new location or new locations, and
6 the cost of any land, or any rights-of-way or interest in lands, and any other rights
7 acquired to accomplish such relocation or removal, and the cost of maintenance of
8 grade separation structures, shall be paid by the compact as a part of the cost of
9 operation of such project. In case of any such relocation or removal of public utility
10 facilities, the owners or operators of the same, their successors or assigns, may use
11 and operate such public utility facilities, with the necessary appurtenances, in the
12 new location or new locations, for as long a period, and upon the same terms and
13 conditions, as they had the right to maintain and operate such public utility facilities
14 in their former location or locations.

15 B. Notwithstanding the provisions of Subsection A of this Section, any
16 utility allowed to exist on an compact's right-of-way at the request of the utility
17 pursuant to R.S. 48:2180(6), shall be responsible for any cost of relocation,
18 removal, or grade separation and all expenses related thereto.

19 §2184. Levy special benefit assessments

20 A. To authorize the Louisiana Intrastate Rail Compact to levy special
21 benefit assessments for needed public rail transit facilities and services on the
22 property which benefits from those facilities and services.

23 B. The intrastate rail compact transit facilities and services provide special
24 benefits to parcels of land, and improvements thereon, in the vicinity of rail rapid
25 transit stations, and provide general benefits to the community-at-large. The board
26 of directors of the Louisiana Intrastate Rail Compact shall be conclusive judge of
27 the proportion of special and general benefits produced by the facilities and of the
28 distribution of the special benefits among parcels of property within the benefit
29 assessment district.

1 §2185. Local option

2 The provision of R.S. 48:2184 shall not apply to any municipality or parish
3 unless the qualified electors of the municipality or parish vote in favor of the
4 application of this Chapter to the municipality or parish.

5 §2186. Contracts; construction and law enforcement

6 A. All contracts of a compact for the construction, improvement, repair,
7 or maintenance of any project shall be made and awarded under the same
8 conditions, terms, requirements, and provisions as are provided by law with respect
9 to contracts of the state for state-designated projects, or a parish for parish-related
10 projects, or a municipality for municipal-street system. In the making and
11 awarding of such contracts, the compact shall be under the same duties and
12 responsibilities with respect thereto as are now imposed by law, from time to time,
13 including Part XIII of Chapter 1 of this Title as amended, relative to the awarding
14 of contracts for public works, provided that all contracts of a compact for the
15 construction, improvement, repair, or maintenance of any state-designated project
16 shall be made and awarded under the same conditions, terms, requirements, and
17 provisions as are now provided for with respect to contracts of the Department of
18 Transportation and Development and in the making and awarding of such
19 contracts, the compact shall be under the same duties and responsibilities with
20 respect thereto as are now imposed upon the department, including Part II of
21 Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, as amended.

22 B. Exceptions shall be made for publicly funded improvements made to
23 private railway property under contract to the compact for a public benefit, where
24 the labor organizations of the private railway have agreements to carry out work
25 on such property. In this case, the granted public benefit by the private railway
26 company shall be considered an intangible asset owned by the compact.

27 C. Notwithstanding any law to the contrary, a compact may contract with
28 a private entity to provide services for design, cost estimate, feasibility studies,
29 operations, management and construction management services, provided that any

1 contract awarded for such services shall be awarded only after the compact drafts
2 and uses a request for proposal seeking proposals from qualified providers. Notice
3 of such request for proposals shall be published twice, once a week for two weeks,
4 in the official journal of the compact and once in at least one trade journal. Such
5 notice shall give a brief description of the services sought where a complete
6 request for proposal form may be obtained and the deadline for response to the
7 proposal, which shall be no less than thirty days from the last publication in the
8 official journal. Nothing in this Subsection shall be construed to allow contracts
9 for the construction, improvement, repairs, or maintenance of railways to be
10 awarded in any manner other than as set forth in Subsection A of this Section.

11 D. A compact created hereunder shall contract with either the state police,
12 a law enforcement district, or municipal law enforcement agency for law
13 enforcement and patrol functions.

14 §2187. Bonds

15 A. Without reference to any provision of the Constitution of Louisiana and
16 the laws of Louisiana, and as a grant of power in addition to any other general or
17 special law, a compact created pursuant to this Chapter may issue bonds for any
18 corporate purpose and pledge revenues for the payment of the principal and interest
19 of such bonds. A compact is further authorized, in its discretion, to pledge all or
20 any part of any gift, grant, donation, or otherwise any sum of money, aid, or
21 assistance from the United States, the state, or any political subdivision thereof,
22 unless otherwise restricted by the terms thereof, all or any part of the proceeds of
23 bonds, credit agreements, instruments, or any other money of the compact, from
24 whatever source derived, for the further securing of the payment of the principal
25 and interest of the bonds.

26 B. Bonds issued under the provisions of this Chapter shall not be deemed
27 to constitute a pledge of the full faith and credit of the state or of any governmental
28 unit thereof. All such bonds shall contain a statement on their face substantially
29 to the effect that neither the full faith and credit of the state nor the full faith and

1 credit of any public entity of the state are pledged to the payment of the principal
2 of the interest on such bonds. The issuance of bonds under the provisions of this
3 Chapter shall not directly, indirectly, or contingently obligate the state or any
4 governmental unit of the state to levy any taxes whatever therefor or to make any
5 appropriation for their payment, other than obligations to make payments by the
6 state or public entities to the compact arising out of contracts authorized under this
7 Chapter.

8 C. Prior to the issuance of any bonds for a project, a business plan must be
9 prepared detailing the estimated expenditures for and revenues from the operation
10 of all capital improvements and the time schedule for such expenditures and
11 receipts. The compact shall employ a financial advisor, and the plan must be
12 recommended by the compact's financial advisor as fiscally sound and approved
13 by the compact prior to the issuance of any bonds.

14 D. Bonds shall be authorized by a resolution of the board and shall be of
15 such series, bear such date or dates, mature at such time or times, bear interest at
16 such rate or rates, including but not limited to fixed, variable, or zero rates, be
17 payable at such time or times, be in such denominations, be in such form, carry
18 such registration and exchangeability privilege, be payable in such medium of
19 payment and at such place or places, be subject to such terms of redemption prior
20 to maturity at such price or prices as determined by the compact, and be entitled
21 to such priority on the revenues as such resolution or resolutions may provide.

22 E. Bonds shall be sold by the compact at public sale by competitive bid or
23 negotiated private sale and at such price or prices as the compact may determine
24 to be in the best interest of the compact.

25 F. The issuance of bonds shall not be subject to any limitations,
26 requirements, or conditions contained in any other law, and bonds may be issued
27 without obtaining the consent of the state or any political subdivision, or of any
28 agency, commission, or instrumentality thereof, except that the issuance of such

1 bonds shall be subject to the approval of the State Bond Commission. The bonds
2 shall be issued in compliance with the provisions of this Chapter.

3 G. For a period of thirty days after the date of publication of a notice of
4 intent to issue bonds in the official journal of the compact authorizing the issuance
5 of bonds hereunder, any persons in interest shall have the right to contest the
6 legality of the resolution and the legality of the bond issue for any cause, but after
7 that time no one shall have any cause or right of action to contest the legality of the
8 resolution or of the bonds or the security therefor for any cause whatsoever. If no
9 suit, action, or proceeding is begun contesting the validity of the resolution, the
10 bonds or the security therefor within the thirty days herein prescribed, the compact
11 to issue the bonds and to provide for the payment thereof, the legality thereof, and
12 of all of the provisions of the resolution authorizing the issuance of the bonds shall
13 be conclusively presumed to be legal and shall be incontestable. Any notice of
14 intent so published shall set forth in reasonable detail the purpose of the bonds, the
15 security therefor, and the parameters of amount, duration, and interest rates. A
16 compact shall designate any paper of general circulation in its geographical
17 jurisdiction as its official journal. Any suit to determine the validity of bonds
18 issued by the compact shall be brought only in accordance with the provisions of
19 the Bond Validation Procedures Act (R.S. 13:5121 et seq.). In addition, the Bond
20 Validation Procedures Act may also be used to establish the validity of any
21 contract entered into pursuant to R.S. 48:2180(18).

22 H. All bonds issued pursuant to this Chapter shall have all the qualities of
23 negotiable instruments under the commercial laws of the state.

24 I. Any pledge of revenues or other monies made by a compact shall be
25 valid and binding from the time when the pledge is made. The revenues or monies
26 so pledged and thereafter received by the compact shall immediately be subject to
27 the lien of such pledge without any physical delivery thereof or further act, and the
28 lien of any such pledge shall be valid and binding as against all parties having

1 claims of any kind in tort, contract, or otherwise against the compact irrespective
2 of whether such parties have notice thereof.

3 J. Neither the directors of the board nor any person executing the bonds
4 shall be liable personally for the bonds or be subject to any personal liability or
5 accountability by reason of the issuance thereof.

6 K. Bonds of a compact, their transfer, and the income therefrom shall at
7 all times be exempt from all taxation by the state or any political subdivision
8 thereof, and may or may not be exempt for federal income tax purposes. The
9 bonds issued pursuant to this Chapter shall be and are hereby declared to be legal
10 and authorized investments for banks, savings banks, trust companies, building and
11 loan associations, insurance companies, fiduciaries, trustees, and guardians. Such
12 bonds shall be eligible to secure the deposit of any and all public funds of the state
13 and any and all public funds of municipalities, parishes, school districts, or other
14 political corporations or subdivisions of the state. Such bonds shall be lawful and
15 sufficient security for said deposits to the extent of their value.

16 L. A compact organized pursuant to this Chapter is hereby authorized to
17 provide by resolution for the issuance of refunding bonds of the compact for the
18 purpose of refunding any bonds then outstanding and issued by the provisions of
19 this Chapter, whether or not such outstanding bonds have matured or are then
20 subject to redemption. The compact is further authorized to provide by resolution
21 for the issuance of a single issue of bonds of the compact for the combined
22 purposes of (1) paying the costs of any project, and (2) refunding bonds of the
23 compact which shall then be outstanding, whether or not such outstanding bonds
24 have matured or are then subject to redemption. The issuance of such refunding
25 bonds, the maturities, and the other details thereof, the rights and remedies of the
26 holders thereof, and the rights, powers, privileges, duties, and obligations of the
27 compact with respect to the same, shall be governed by the foregoing provisions
28 of this Chapter insofar as the same may be applicable.

1 M. A compact created hereunder shall have the authority to employ all
2 professionals it deems necessary in the issuance of its bonds, including but not
3 limited to bond counsel, issuer counsel, a financial advisor, and fiduciaries.

4 N. A compact created hereunder shall be deemed to be a public entity for
5 purposes of Chapters 13, 13-A, 14, 14-A, 14-B, and 15-A of Title 39 of the
6 Louisiana Revised Statutes of 1950, as amended, which statutes shall apply to
7 bonds of a compact, provided that in the event of a conflict with the provisions of
8 this Chapter, the provisions of this Chapter shall control.

9 §2188. Chapter supplemental; liberal construction

10 The powers and rights conferred by this Chapter shall be deemed to provide
11 an additional and alternative method for the doing of the things authorized thereby,
12 shall be regarded as supplemental and additional to powers conferred by other
13 general laws, and shall not be regarded as in derogation of any powers now
14 existing. This Chapter does and shall be construed to provide a complete and
15 additional method for the issuance of bonds. No proceeding, hearing, notice, or
16 approval shall be required for the issuance of any bonds or any instrument as
17 security therefor, except as provided herein. The provisions of this Chapter shall
18 be liberally construed for the accomplishment of its purposes.

19 §2189. Cessation of railway; conveyance of project

20 A. When bonds issued for any parish-related project and the interest
21 thereon have been paid in full, or sufficient funds have been deposited in trust for
22 that purpose, and the parish project is in a condition of maintenance satisfactory
23 to the parish, said project and any property acquired as part of project costs shall
24 be transferred by the compact to and shall thereby be conveyed in full ownership
25 to the respective parish; and the parish shall assume jurisdiction and control of the
26 project, which will then become part of the parish road system and be subject to
27 maintenance, control, and operation of the parish as an integral part of the parish
28 road system, and the parish, in its discretion, may provide that any toll or fee
29 collected may be continued for the purpose of maintenance. Upon the later of

1 payment in full of all bonds and the interest thereon, the deposit of funds in trust
2 for such purpose, or the final resolution of any disputes or litigation pending
3 against a compact on such transfer and conveyance date, the existence of the
4 authority shall terminate. From the date of such transfer and conveyance of the
5 project, the authority shall continue to exist to dispose of any unresolved litigation
6 not related to the day-to-day management of the project. If no such litigation is
7 pending on the date the project transfers and conveys, the compact shall terminate
8 on the transfer and conveyance date.

9 B. When bonds issued for any municipal-designated project and the
10 interest thereon has been paid in full, or sufficient funds have been deposited in
11 trust for that purpose and the municipal project is in a condition of maintenance
12 satisfactory to the municipality, said project and any property acquired as part of
13 the project costs shall be transferred by the compact to and shall thereby be
14 conveyed in full ownership to the respective municipality; and the municipality
15 shall assume jurisdiction and control of the project, which will then become part
16 of the municipal road system and be subject to maintenance, control, and operation
17 of the municipality as an integral part of the municipal road system, and the
18 municipality, in its discretion, may provide that any fee collected may be continued
19 for the purpose of maintenance. Upon the later of payment in full of all bonds and
20 the interest thereon, the deposit of funds in trust for such purpose, of the final
21 resolution of any disputes or litigation pending against a compact on such transfer
22 and conveyance date, the existence of the compact shall terminate. From the date
23 of such transfer and conveyance of the project, the compact shall continue to exist
24 to dispose of any unresolved litigation not related to the day-to-day management
25 of the project. If no such litigation is pending on the date the project transfers and
26 conveys, the compact shall terminate on the transfer and conveyance date.

27 C. A notice of transfer and reversion of ownership of any such project shall
28 be published twice in the official journal of the state, parish, or municipality, as the
29 case may be, to receive such ownership conveyance with the first publication to be

- 1 made not more than one hundred eighty nor less than one hundred fifty days from
 2 the full bond principal and interest payment or date of deposit in trust therefor and
 3 the second not more than ninety nor less than sixty days therefrom.
- 4 D. Any parish may join the Louisiana Intrastate Rail Compact if approved
 5 by the governing authority of the parish and parish president.

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)]

Michael Jackson

HB No. 1410

Abstract: Creates the "La. Intrastate Rail Compact" in DOTD, relative to powers, duties, responsibilities, and functions of the compact.

Proposed law creates the "La. Intrastate Rail Compact Act". The purpose of the Act is to develop and maintain an efficient, safe, and well maintained system of railways, transit ways, and other transportation facilities that will be essential to La.'s economic health.

Proposed law provides for definitions.

Proposed law authorizes any parish or municipality or a combination of contiguous parishes and municipalities to form and incorporate a quasi-governmental entity compact.

Proposed law authorizes any parish or municipality, or two or more contiguous parishes, municipalities, or any combination of contiguous parishes and municipalities, to form and incorporate a compact pursuant to La. Nonprofit Corporation Law.

Proposed law requires the boundaries of the compact be coextensive with the territorial boundaries of the parish or parishes or municipality or municipalities.

Proposed law requires the compact to adopt bylaws as the directors of the compact deem necessary.

Proposed law provides that there is no liability on the part of the state or local governmental subdivisions arising out of any action or inaction of an authority prior to transfer of the project. Exempts from liability individual members, officers, and employees of the compact.

Proposed law requires the compact to be subject to the Public Records Law and the Open Meetings Law.

Proposed law provides that each compact be governed by a board of directors. There shall be at least five directors, and one of whom shall be the La. designee to the Southern Rail Corridor to be appointed by the chairman of the Southern Rail Corridor.

Proposed law provides that all directors other than the chairman of the metropolitan planning organizations, shall be appointed by the parish or municipality forming the compact, if there is only one. Further provides that if more than one parish, municipality,

or any combination of parishes and municipalities are involved in forming a compact, each parish or municipality shall appoint an equal number of directors.

Proposed law requires the compact to elect from its directors, a chairman, a vice chairman, and a secretary-treasurer who shall serve one-year terms. Requires that if there is more than one parish or municipality involved in the formation of a compact, the chairmanship for each successive term shall be alternated among the representatives of all participating parishes and municipalities.

Proposed law provides that vacancies shall be filled in the same manner as the original appointments for the unexpired term as set forth in the articles of incorporation or bylaws of the compact.

Directors shall receive reimbursement for expenses but no salary. All officers and directors shall be subject to the Code of Governmental Ethics.

Proposed law authorizes a compact authority created under proposed law to construct transit way facilities along a transit corridor within the state.

Proposed law authorizes the compact to have powers, including but not limited to fixing, revising, and adjusting from time to time, fees and charges for each project sufficient to pay all maintenance, operation, debt services, and reserve or replacement costs.

Proposed law authorizes the compact for any part of a project, including placement of utilities or services along rights-of-way. Provides that any utilities so located shall be under the one-call system with locator strips and requires removal of such utilities or services at the expense of the lessee if expansion of the railway is required in the future. Provides that the installation and removal of utility facilities shall be consistent with rules and regulations of the federal government and DOTD.

Proposed law requires eminent domain to be used solely for the purpose of construction railway transportation system and for other public purposes.

Proposed law authorizes the compact to determine points of ingress and egress for their project and requires public hearings for creation of new points of ingress or egress or for substantial reconstruction of transportation projects. Requires DOTD approval when intersecting with a state project.

Proposed law requires the compact to contract with state police, a law enforcement district, or municipal law enforcement agency for law enforcement and patrol functions.

Proposed law authorizes the La. Intrastate Rail Compact to levy a special benefit assessments for needed public rail transit facilities and services on the property which benefits from those facilities and services.

Proposed law provides the intrastate rail compact transit facilities and services provide special benefits to parcels of land, improvements in the vicinity of rail rapid transit stations, and provide general benefits to the community-at-large.

Proposed law requires the board of directors of the compact to be conclusive judge of the proportion of special and general produced by the facilities and of the distribution of the special benefits among parcels of property within the benefit assessment district.

Proposed law requires the approval of DOTD for any project which is a state project.

Proposed law provides for a local option under proposed law which shall not apply to any municipality or parish unless the qualified electors of the municipality or parish vote in favor of the application under proposed law to the parish or municipality.

Proposed law requires that all contract for a project of the compact shall be made and awarded under the same conditions, terms, requirements, and provisions as are required for the governmental subdivisions which formed the compact. If it is a state project, the contracts shall be issued under same conditions, terms requirements, and provisions as are required for DOTD.

Proposed law authorizes the issuance of revenue bonds for any corporate purpose, including refunding existing bonds of the authority. Specifically provides that debt of the compact shall not constitute debt of the state or of any governmental subdivision involved in the formation of the compact. Prior to issuance of any bonds, the compact shall adopt and present a plan for projects, estimated expenditures, and receipts for all capital improvements and a time schedule for the projects. Authorizes the sale of bonds at public sale by competitive bid or, upon recommendation of a financial advisor and 2/3 vote of the members of the compact, at negotiated sale. Provides for a 30-day challenge period. Provides for a pledge of revenues as security for the bonds. Exempts members of the board from personal liability in relation to the bonds. Provides that no other procedures shall be required for issuance of the bond except approval by the State Bond Commission.

Proposed law provides that an exception be made for publicly funded improvements made to private railway property under contract to the compact for a public benefit, where the labor organizations of the private railway have agreements to carry out work on such property. Further provides that in this case, the granted public benefit by the private railway company shall be considered an intangible asset owned by the compact.

Proposed law requires termination of the compact upon repayment of all debt, the deposit of funds in trust for such purpose or the final resolution of any disputes or litigation pending, whichever item is last.

Proposed law provides the department with the compact to let bridge contracts and provides regulations governing such contracts.

Proposed law authorizes any parish to join the La. Intrastate Rail Compact if approved by the governing authority of the parish or parish president.

Proposed law prohibits provisions under proposed law from applying to the Greater New Orleans Expressway or any projects or improvements of the expressway.

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

(Adds R.S. 48:2171-2189)

Summary of Amendments Adopted by House

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

1. Authorized any parish or municipality or two or more contiguous parishes, or municipalities, or any combination of contiguous parishes or municipalities to form and incorporate a quasi-governmental entity compact.
2. Removed the requirement that any compact form and incorporate a compact under the La. Nonprofit Corporation Law.
3. Removed the secretary of DOTD as member of board of directors.
4. Added the La. designee of the Southern Rail Corridor to be appointed by the chairman of the Southern Rail Corridor to the board of directors.

5. Allowed the compact authority the option of constructing transit way facilities along a transit corridor within the state rather than constructing transit way facilities along the Southern High-Speed Rail Corridor.
6. Removed the option that DOTD at the request of the compact to expend funds for the purposes of a compact for any state-designated project.
7. Removed the authority of DOTD to serve as an agent to the compact for construction and other improvements. Further removes the compact from providing to DOTD any documents of planning for any compact.
8. Provided that the provision provided by law shall not apply to any municipality or parish unless the qualified electors of the municipality or parish vote in favor of the provision relative to levy benefit assessments of the municipality or parish.
9. Removed provision that provided that when the bonds are paid in full associated with a project ownership of the project shall be conveyed to the state.