

Regular Session, 2013

HOUSE BILL NO. 595

BY REPRESENTATIVES ABRAMSON AND HUVAL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROPERTY/PUBLIC: Provides for the transfer or lease of state property in Orleans Parish and St. Martin Parish

1 AN ACT

2 To authorize and provide for the transfer of certain state property; to authorize the transfer
3 of state property in Orleans Parish and St. Martin Parish; to provide for reservation
4 of mineral rights; to provide terms and conditions; to provide an effective date; to
5 provide for legislative intent; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Pursuant to a Quitclaim Deed dated December 16, 1981, between the
8 United States of America and the state of Louisiana, the property described in Section 5
9 herein was transferred to the state with specific conditions, which was binding on the state,
10 its successors and assigns that for a period of thirty years from the date of the deed, including
11 that the property shall be used continuously as a mental health care facility for children and
12 adolescents providing a range of services to the population within its service area. If the
13 state failed to comply with the condition, the property would revert to the federal
14 government.

15 Section 2. The New Orleans Adolescent Hospital (NOAH) was opened on the
16 property in 1983. Prior to opening, a study was done to determine the best location for
17 mental health services for children and adolescents, and the conclusion was to place the
18 services where the children and their families were located. The services were opened at the
19 NOAH site as a result of that study. NOAH was operated by the state for almost twenty nine
20 years. In 2009, the legislature provided the funding for NOAH, but the funds were vetoed.
21 As a result, NOAH was closed.

1 Section 3. Since the NOAH was closed, the legislature has recognized the need for
2 additional mental health services for children and adolescents in the New Orleans area and
3 has continued to strive to provide additional services, including returning services to the
4 NOAH property. Act No. 156 of the 2010 R.S. provided for the NOAH property, requiring
5 that the NOAH property was to be used for healthcare and mental health care and education.
6 Act No. 867 of the 2012 R.S. authorized the division of administration to enter into a
7 long-term lease for the NOAH property, including the requirement that the portion of the
8 property which formerly housed the New Orleans Adolescent Hospital be administered,
9 managed, and operated so as to provide mental health services, including in-patient and
10 out-patient services consistent with those services provided by NOAH prior to 2010. Act No.
11 867 set up a non-competitive bid process relating to a lease of the state's NOAH property in
12 order to locate an entity which would agree to include the mental health services on the
13 property, which the legislature recognized as an important and critical public necessity. As
14 a result, Act No. 867 gave Children's Hospital, New Orleans, known as Children's Hospital,
15 Inc. (CHI), the exclusive right of first refusal to lease the property in accordance with the
16 provisions of Act No. 867. If CHI declined to accept the terms as outlined by state law, Act
17 No. 867 authorized the division of administration to offer the property on the same terms to
18 other health care providers.

19 Section 4. On January 25, 2013, CHI signed a lease with the division of
20 administration for the NOAH property, which provided a ninety-nine year lease of the 17.22
21 acre property for six hundred fifty two thousand three hundred sixty two dollars (\$652,362)
22 per year, with future years adjusted for inflation. The lease specifically states "WHEREAS,
23 Children's desires to lease this property from the DOA in accordance with Act 867 and will
24 use said property in the furtherance of Lessee's mission of child and adolescent pediatric,
25 healthcare, pediatric mental healthcare and medical education in the City of New Orleans".
26 The lease further states that "In accordance with Act 867, the Property . . . that formally
27 housed the New Orleans Adolescent Hospital . . . shall be administered, managed, and
28 operated so as to provide mental health care, including in-patient and out-patient services
29 consistent with those services provided by NOAH prior to 2010".

30 Section 5. The lease between the State and CHI provides that it may be terminated
31 with or without cause prior to June 20, 2013. CHI has indicated that, despite its signing the

1 lease and agreeing in that document to the provisions of Act No. 867, CHI may not comply
2 with state law as set forth in Act No. 867 and specifically that CHI may not provide mental
3 health services as required by Act No. 867. CHI has further indicated that it may terminate
4 the lease rather than follow state law, including providing the mental health services as set
5 forth in Act No. 867.

6 Section 6. Recognizing the importance of increasing mental health services,
7 particularly for children and adolescents, and the critical and important public purpose which
8 those services provide, it was the intent of the Legislature of Louisiana that the exclusive,
9 non-competitive lease provided in Act No. 867 of the 2012 R.S. was offered to CHI due to
10 the inclusion of the requirement that a portion of the property be used for those mental health
11 services. Without the public purpose set forth in the condition that mental health services
12 be provided on a portion of the property comparable to those provided by NOAH prior to
13 2010, the legislature would not have provided CHI with an exclusive right of first refusal of
14 state property, which is contrary to the customary competitive bid process for state property
15 which it will be used solely for private purposes.

16 Section 7. In the event that the division of administration or CHI terminates the lease
17 agreement executed January 25, 2013, with or without cause prior to June 20, 2013, or if the
18 lease agreement is held to be null and void, the commissioner of the division of
19 administration, notwithstanding any other provision of law to the contrary, is hereby
20 authorized and empower to lease, excluding mineral rights, the rights the state may have to
21 all or any portion of state property known as the New Orleans Adolescent Hospital (NOAH)
22 to Ochsner Health Systems (Ochsner) and described in this Section. The division of
23 administration shall offer to Ochsner the lease on the same terms and conditions contained
24 in the lease dated January 25, 2013 between CHI and the division of administration, and the
25 division of administration shall sign and execute with Ochsner a lease with those same terms
26 and conditions should Ochsner accept those terms and conditions.

27 17.22 acres with a physical address of 210 State Street, New Orleans, LA 70118 and
28 measuring 1,072' along Leake Avenue by 680' along State Street by 1024' along
29 Tchoupitoulas Street by 773' along Henry Clay Avenue, situated in Section 13,
30 Township 13 S-Range 11E in Orleans Parish, LA, together with all improvements
31 thereon.

1 Section 8. The commissioner of the division of administration is hereby authorized
2 to enter into such agreements, covenants, conditions, and stipulations and to execute such
3 documents as necessary to properly effectuate any lease, excluding mineral rights, to the
4 property as more specifically described in any such agreements entered into and documents
5 executed between the commissioner of the division of administration and Ochsner.

6 Section 9. (A) The authority provided to the commissioner of administration in
7 Section 7 of this Act shall be conditioned upon the agreement authorized by Section 8 of this
8 Act containing the following provisions:

9 (1) The property shall be administered, managed, and operated as a facility for health
10 care, mental health care, or health care or mental health care education.

11 (2) The portion of the property described in Section 1 of this Act that formerly
12 housed the New Orleans Adolescent Hospital shall be administered, managed, and operated
13 so as to provide mental health care including in-patient and out-patient services consistent
14 with those services provided by the New Orleans Adolescent Hospital prior to 2010. Such
15 services may be provided by a third party as more particularly provided for in the lease
16 agreement.

17 (B) In the event the property is not administered, managed, and operated as provided
18 in the conditions provided for in Subsection A of this Section, the lease shall terminate and
19 control of such property shall immediately revert to and vest in the state.

20 Section 10. The lease provided for in Section 7 and Section 8 of this Act shall be
21 executed by December 1, 2013. Failure to execute the lease shall render Section 7 and
22 Section 8 of this Act null, void, and without effect. After such time or when Ochsner refuses
23 to enter into the lease, whichever is sooner, the commissioner of administration shall issue
24 a request for proposal seeking other parties to lease the property on the same terms and
25 conditions. Neither CHI and Ochsner nor any of their subsidiary or affiliated companies
26 shall be allowed to participate in the request for proposals. The Division of Administration
27 shall review and make a recommendation on the respondents of the request for proposals to
28 the Senate Committee on Health and Welfare and House Committee on Health and Welfare
29 by February 1, 2014, so legislation may be introduced prior to the 2014 Regular Session to
30 authorize a lease to a respondent.

1 Section 11. The commissioner of the division of administration, notwithstanding any
2 other provision of law to the contrary, is hereby authorized and empowered to convey,
3 transfer, assign, lease or deliver any interest, excluding mineral rights, the state may have
4 to the following described properties to the adjacent landowners, but only upon the condition
5 that the Atchafalaya Land Corporation or its successors in title reject their option to purchase
6 their former interest pursuant to R.S. 41:1338:

7 Parcels of land directly behind and adjacent to Lots 34, 35, 36, 37, 38, 39, 40, 41, 42,
8 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, and 58, not to exceed beyond
9 the bank of a borrow pit canal or the extent of state ownership, located within
10 Section 11, T9S-R7E, St. Martin Parish. Said lots are described on a plat by C.L.
11 Jack Stelly dated April 3, 1984, revised June 27, 1997, on file in the St. Martin Parish
12 Courthouse, COB 1259 Folio 424, conveyance number 285081, reserving to the
13 State a right-of-passage for the general public along the trail existing parallel and
14 next to the borrow pit canal.

15 Section 12. The commissioner of the division of administration is hereby authorized
16 to enter into such agreements, covenants, conditions, and stipulations and to execute such
17 documents as necessary to properly effectuate any conveyance, transfer, assignment, lease
18 or delivery of title, excluding mineral rights, to the property described in Section 11 of this
19 Act, and as more specifically described in any such agreements entered into and documents
20 executed by and between the commissioner of the division of administration and the adjacent
21 landowners, in exchange of consideration proportionate to the appraised value of the
22 property.

23 Section 13. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

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)]

Abramson

HB No. 595

Authorizes the lease of state property, reserving mineral rights, in Orleans Parish which formally housed the New Orleans Adolescent Hospital (NOAH) from the division of administration to Ochsner Health Systems in the event the current lease with Children's Hospital, Inc. (CHI) is terminated prior to June 20, 2013.

Failing to lease the property to Ochsner by December 1, 2013, the division is required to issue a request for proposals to lease the property to other parties other than CHI or Ochsner. The division is required to make recommendations to House and Senate oversight committees on a respondent prior to February 1, 2014.

Requires that any lease to Ochsner and the in the request for proposals contain the following provisions:

- (1) The property shall be administered, managed, and operated as a facility for health care, mental health care or health care or mental health care education.
- (2) The portion of the property shall be administered, managed, and operated so as to provide mental health care including in-patient and out-patient services consistent with those services formally provided by the New Orleans Adolescent Hospital prior to 2010. Such services may be provided by a third party and as more particularly provided for in the lease agreement.

Provides that if the property is not administered, managed, and operated as provided in the conditions, the lease shall terminate and control of such property shall immediately revert to and vest in the state.

Authorizes the transfer or lease of certain state property in St. Martin Parish from the division of administration to the adjacent landowners to the property. Provides for the reservation of mineral rights to the state.

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