

Regular Session, 2011

# ACT No. 207

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

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           aforenamed 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: \_\_\_\_\_

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.