

**ACT No. 395**

Regular Session, 2006

HOUSE BILL NO. 744

BY REPRESENTATIVES BRUNEAU AND K. CARTER AND SENATOR MURRAY

AN ACT

To amend and reenact Section 1 of Act No. 130 of the 1896 Regular Session of the Legislature, and Sections 1 through 8 of Act No. 569 of the 1989 Regular Session of the Legislature, as amended by Act No. 13 of the 1998 First Extraordinary Session of the Legislature, and R.S. 36:209(O) and to enact R.S. 36:802.21, relative to New Orleans City Park; to provide for the powers, duties, functions, and responsibilities of the New Orleans City Park Improvement Association and its board of commissioners and the powers, duties, functions, and responsibilities of the Department of Culture, Recreation and Tourism and its officers and offices with respect to the park and the association and its board of commissioners; to provide that the association and its board shall be policymaking agencies; to provide for certain other powers of the board; to provide relative to employees, their appointing authority, civil service status, and certain benefits; to provide relative to contracts with a nonprofit or not-for-profit firm, corporation, or entity and the authority therefor; to provide relative to funds and funding and related procedures; to provide relative to use of the park; to provide that the secretary of the Department of Culture, Recreation and Tourism shall be a member of the board; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 1 of Act No. 130 of the 1896 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

Section 1. Be it enacted by the General Assembly of the State of Louisiana,

That:

(A) the ~~The~~ park in the City of New Orleans known as the "New Orleans City Park" be and is hereby placed under control and management of the "New Orleans

1 City Park Improvement Association" incorporated under the laws of the State, by an  
2 act before Felix J. Dreyfous, Notary Public, on the 13<sup>th</sup> day of August, 1891.

3 (B) The secretary of the Department of Culture, Recreation and Tourism  
4 shall be a member of the board of commissioners of the New Orleans City Park  
5 Improvement Association.

6 Section 2. Sections 1 through 8 of Act No. 569 of the 1989 Regular Session of the  
7 Legislature, as amended by Act No. 13 of the 1998 First Extraordinary Session of the  
8 Legislature, are hereby amended and reenacted to read as follows:

9 Section 1. A.(1) The New Orleans City Park Improvement Association,  
10 through its board of commissioners, is hereby vested with authority to and may  
11 contract with any nonprofit or not-for-profit firm, corporation, or entity, as more  
12 specifically provided in Section 2 of this Act, for the operation, care, control, and  
13 management of the park and its facilities or to contract with any such entity for any  
14 of such purposes for any or all of such facilities.

15 (2) The authority granted by this Section shall include but shall not be  
16 limited to the authority to contract for:

17 (a) The recruiting, hiring, and employing by the contractor of such kinds and  
18 numbers of non-managerial employees to be managed, supervised, directed, and/or  
19 scheduled by the board or its designee as the board or its designee may direct from  
20 time to time.

21 (b) The procurement by the contractor for the park or the board of such  
22 goods and/or services as the board or its designee may direct from time to time.

23 (3)(a) Any firm, corporation, or entity with which the board contracts as  
24 authorized by this Section shall be deemed to be a private entity and shall not be  
25 deemed to be an agent or agency of the state for purposes of provisions of law  
26 relative to procurement of goods and services, leases of facilities, or subcontracts to  
27 manage facilities or services, including but not limited to the Louisiana Procurement  
28 Code (R.S. 39:1551 et seq.); Chapter 16 of Title 39 of the Louisiana Revised Statutes  
29 of 1950, relative to procurement of professional, personal, consulting, and social  
30 services; Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, relative

1 to public contracts; and Chapter 10 of Title 41 of the Louisiana Revised Statutes of  
2 1950, relative to leases of public lands. Any such firm, corporation, or entity with  
3 which the board so contracts may be named as an additional insured on all general  
4 liability, property, automobile, employment practices liability, and workers'  
5 compensation insurance plans that insure the New Orleans City Park Improvement  
6 Association, including participation in the state risk management program.

7 (b) Notwithstanding any provision of this Section or of any other law to the  
8 contrary, no contract to manage services or facilities related to golf or tennis shall be  
9 entered into by the board or by any entity contracting with the board unless the  
10 contractor with whom the board or such entity contracts has been selected pursuant  
11 to a request for proposals designed to promote competition, and the proposals have  
12 been evaluated by a multimember selection committee.

13 B. The board is prohibited from entering into any contract under the  
14 provisions of this Act which is for a purpose not in conformity with the master plan  
15 for New Orleans City Park required by the provisions of Act No. 865 of the 1982  
16 Regular Session of the Legislature or which is otherwise not in conformity with such  
17 master plan.

18 C. Any agreement that the board may enter into in accordance with this Act  
19 may be a contract, lease, or combination contract and lease.

20 D. The board shall in its sole discretion determine the terms, conditions, and  
21 duration of any contract or lease entered into under the provisions of this Act. Any  
22 contract or lease entered into by the board under the provisions of this Act shall  
23 contain a provision in such contract or lease that the contract or lease may be  
24 terminated by the board, with or without just cause, upon written notification to all  
25 parties in the contract or lease, which notification shall be given not less than ninety  
26 days prior to the termination.

27 Section 2. Only a firm, corporation, or entity that is organized under the laws  
28 of the state of Louisiana shall be eligible to contract with the board under the  
29 provisions of this Act, and only a firm, corporation, or entity that is organized as a  
30 nonprofit or not-for-profit firm, corporation, or entity and which has as its primary

1 purpose the betterment and improvement of New Orleans City Park ~~and has at least~~  
2 ~~five hundred members~~ shall be eligible to contract with the board under the  
3 provisions of this Act.

4 Section 3. This Act shall be construed to grant the board the authority to  
5 contract in a cooperative endeavor for the operation, care, control, and management  
6 of the park and its facilities, including any or all facilities located in the park on the  
7 effective date of this Act and any future facilities located in the park. This authority  
8 shall extend to all lands and property for which management and control has been  
9 vested in the New Orleans City Park Improvement Association.

10 Section 4. The board shall have the right to assign any existing contracts that  
11 it may have on the effective date of this Act to any contracting party under the  
12 provisions of this Act. Contracts regarding Tad Gormley Stadium, the Pan-American  
13 Stadium, or any other stadium constructed in the future, if assigned, shall be assigned  
14 under the same terms and conditions existing on June 1, 1989.

15 Section 5. The board shall have full authority to delegate to the nonprofit  
16 entity its ability or authority to collect any rents, charges, admissions, or fares it may  
17 be empowered to collect.

18 Section 6. Any contractor shall have the full authority to hire its own  
19 employees to provide services under a contract authorized by this Act, including but  
20 not limited to any services formerly provided by the employees of the New Orleans  
21 City Park Improvement Association or its board.

22 Section 7. Any contract entered into under the provisions of this Act shall  
23 be deemed to be a cooperative endeavor under the provisions of Article VII, Section  
24 14(C) of the Constitution of Louisiana.

25 Section 8. Nothing in this Act No. 569 of the 1989 Regular Session of the  
26 Legislature, as amended by Act No. 13 of the 1998 First Extraordinary Session of the  
27 Legislature and Section 2 of the Act which originated as House Bill No. 744 of the  
28 2006 Regular Session of the Legislature, shall be construed to affect or diminish, in  
29 any manner whatsoever, the rights, powers, and authority otherwise granted by law  
30 to the New Orleans City Park Improvement Association and its board of

1 commissioners to manage and control New Orleans City Park, and the authority  
 2 granted to the New Orleans City Park Improvement Association and its board by this  
 3 Act shall be in addition to any rights, powers, and authority otherwise granted to the  
 4 association or the board by law. The provisions of this Act shall be subject to the  
 5 provisions of R.S. 36:802.21 relative to the transfer of the New Orleans City Park  
 6 Improvement Association and its board of commissioners to the Department of  
 7 Culture, Recreation and Tourism.

8 \* \* \*

9 Section 3. R.S. 36:209(O) is hereby amended and reenacted and R.S. 36:802.21 is  
 10 hereby enacted to read as follows:

11 §209. Transfer of boards, commissions, departments, and agencies to Department  
 12 of Culture, Recreation and Tourism

13 \* \* \*

14 O. The New Orleans City Park Improvement Association and its board of  
 15 commissioners (Act No. 130 of 1896; Act No. 104 of 1934; Act No. 492 of 1958;  
 16 Act No. 405 of 1962; Act No. 865 of 1982; Act No. 569 of 1989; Act No. 13 of 1998  
 17 First Extraordinary Session) is transferred to the Department of Culture, Recreation  
 18 and Tourism and shall exercise and perform its powers, duties, functions, and  
 19 responsibilities as provided for agencies transferred in accordance with the  
 20 provisions of R.S. ~~36:801~~ 36:802.21.

21 \* \* \*

22 §802.21. Transfer New Orleans City Park Improvement Association and its board  
 23 of commissioners

24 A. The New Orleans City Park Improvement Association and its board of  
 25 commissioners, transferred by the provisions of R.S. 36:209(O), are transferred to  
 26 and placed within the Department of Culture, Recreation and Tourism and shall  
 27 exercise and perform their powers, duties, functions, and responsibilities as provided  
 28 for agencies transferred as provided in R.S. 36:802, except as provided in this  
 29 Section.

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

1           B. Notwithstanding any provision of law to the contrary, the board of  
2           commissioners of the New Orleans City Park Improvement Association, referred to  
3           in this Section as the "board", shall:

4           (1) Continue to appoint the general manager and the assistant general  
5           manager of the park.

6           (2) Continue to establish fees, rents, charges, admissions, or fares as  
7           otherwise authorized by law, except as otherwise provided in any contract for the  
8           operation, care, control, or management of the park or any of its facilities as  
9           otherwise authorized by law.

10           (3) Make an annual report to the legislature as provided in Section 7 of Act  
11           No. 865 of the 1982 Regular Session of the Legislature.

12           C.(1) The provisions of this Section shall not affect the appointing authority  
13           of the New Orleans City Park Improvement Association, its board of commissioners,  
14           or its general manager as otherwise provided by or pursuant to law. The provisions  
15           of this Section shall not affect the provisions of Section 6 of Act No. 865 of the 1982  
16           Regular Session of the Legislature.

17           (2) The provisions of this Section shall not affect the provisions of R.S.  
18           11:413(14) which shall remain in effect. The provisions of this Section shall not  
19           affect Modification No. 91 of the Louisiana State Social Security Agreement  
20           approved on December 28, 1956, and ratified on January 8, 1957, relative to social  
21           security coverage of employees of the New Orleans City Park Improvement  
22           Association which is specifically recognized and shall remain in effect.

23           D. Notwithstanding any provision of law to the contrary, the board may  
24           solicit and accept gifts and donations for the purposes of New Orleans City Park.

25           E.(1)(a) Section 8 of Act No. 865 of the 1982 Regular Session of the  
26           Legislature, as amended by Act No. 13 of the 1998 First Extraordinary Session of the  
27           Legislature, is specifically recognized and shall remain in effect.

28           (b) New Orleans City Park and the New Orleans City Park Improvement  
29           Association shall prepare and make available a plan providing specific goals and  
30           objectives for the use of any state general funds, including measures of performance

1 and a proposed comprehensive budget for the appropriated funding. Any  
2 appropriated state general funds will become available to New Orleans City Park and  
3 the New Orleans City Park Improvement Association upon approval of the plan by  
4 the secretary of the Department of Culture, Recreation and Tourism.

5 (c) New Orleans City Park and the New Orleans City Park Improvement  
6 Association and its board of commissioners shall submit to the Department of  
7 Culture, Recreation and Tourism a comprehensive report of receipts and  
8 expenditures at least quarterly in such form as the department may require and shall  
9 provide the department with any other information it may request.

10 (2) All funds accepted or received by or appropriated or allocated to or for  
11 New Orleans City Park or the New Orleans City Park Improvement Association or  
12 its board of commissioners shall be expended for the benefit of New Orleans City  
13 Park in accordance with policies and the master plan adopted by the board.  
14 Subsection 4(B) of Act No. 865 of the 1982 Regular Session of the Legislature, as  
15 amended by Act No. 13 of the 1998 First Extraordinary Session of the Legislature,  
16 providing for the use of self-generated funds of the park for park development,  
17 maintenance, operation, and other park expenses, is specifically recognized and shall  
18 remain in effect.

19 F. In accordance with the provisions of Section 3(B) of Act No. 130 of the  
20 1896 Regular Session of the Legislature, as amended by Act No. 865 of the 1982  
21 Regular Session of the Legislature, the New Orleans City Park Improvement  
22 Association, its board of directors, and its general manager and the Department of  
23 Culture, Recreation and Tourism and its officers shall have no authority to authorize,  
24 provide for, or otherwise permit the use of the park for residential purposes,  
25 including but not limited to temporary residential purposes, except for park  
26 employees and except for organized functions held in conjunction with recognized  
27 holidays and functions.

1           Section 4. This Act shall become effective on July 1, 2006; if vetoed by the governor  
2           and subsequently approved by the legislature, this Act shall become effective on July 1,  
3           2006, or on the day following such approval by the legislature, whichever is later.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_