

CHAPTER 26. RED RIVER WATERWAY DISTRICT

§§2301. Creation of District; Boundaries

There is hereby created a body politic and corporate of the State of Louisiana which shall exist in perpetuity and be known as the Red River Waterway District, hereinafter simply called the "district." The district shall be composed of all the territory located within the Parishes of Avoyelles, Rapides, Natchitoches, Red River, Grant, Bossier and Caddo as of June 28, 1965. Any amendment of the boundaries of the respective parishes shall not have the effect of altering the area comprising the district nor operate in derogation thereof.

Added by Acts 1965, No. 17, §§ 1.

§§2302. Purpose; Commission

The district is created for the object and purpose of establishing, operating and maintaining, individually or in cooperation with the federal government, the state and its various agencies, subdivisions and public bodies, a navigable waterway system to be known as the Red River Waterway, hereinafter simply called the "waterway," extending from the vicinity of the confluence of Red River with Old River and the Atchafalaya River northwestward in the Red River Valley to the state boundary. To that end and for the purpose of this Chapter, the district shall be governed by a body or commission which shall be known as the Red River Waterway Commission, hereinafter simply called the "commission."

Added by Acts 1965, No. 17, §§ 2.

§§2303. Membership of Commission

The corporate powers and authority herein granted shall vest in and be exercised by the commission, a body to be composed of eleven members as follows: (a) the director of public works of the State of Louisiana who shall be ex-officio chairman of the commission with full voting powers and may duly appoint a representative to represent him at any meeting of the commission with the same effect as though he were in attendance himself; (b) three members-at-large who shall be residents of, own real property subject to taxation in, and be qualified voters of the seven parishes in the district, and who shall be appointed by the governor; and (c) one member from each of the seven parishes of the district (hereinafter sometimes called "parish members"), to be appointed by the governor in the manner hereinafter provided.

The parish members shall be appointed by the governor from nominees submitted to him in the following manner by the nominating bodies hereinafter designated or their legal successors.

Within thirty days after June 28, 1965, (i) the police jury of each parish in the district shall nominate for membership on the commission one person who shall be a resident of, own real property subject to taxation in, and be a qualified voter of, the parish which he is nominated to represent; (ii) the governing body of each levee district situated wholly or partly in the district shall nominate one individual possessing like qualifications for each parish within which it exercises and has territorial jurisdiction; and (iii) the Red River Valley Association, a Louisiana nonprofit corporation, shall nominate for membership on the commission a person possessing like qualifications from each one of the seven parishes of the district. All nominations made by the aforesaid nominating bodies shall be in writing and sent by registered United States mail to the governor under the signature of the chief executive officer or secretary of the respective nominating body. From lists or panels of names compiled from said sources, and within sixty days after June 28, 1965, the governor shall appoint one person from each of the aforesaid seven parishes in the district to serve as a member of the commission; provided, however, that not more than three nominees of police juries, nor more than three nominees of governing bodies of levee districts, nor more than three nominees of the Red River Valley Association may be members of the commission at the same time.

Within thirty days prior to the expiration of the term of office of any member or within thirty days after occurrence of a vacancy prior to the expiration of the term of office of any member, the aforesaid respective nominating bodies so entitled shall, in the parish where appropriate, designate a nominee for the new term or to fill the vacancy. Such nominations shall be made on the same basis, in the same manner and in accordance with the same procedures required for nominations for initial membership on the commission. From the list or panel of names submitted, the governor shall appoint the parish member for the new term or to fill the vacancy as soon as possible after the names of the nominees of the respective nominating bodies have been received by him, subject to the requirements heretofore specified for such membership.

If any one or more of the nominating bodies referred to above shall cease to exist or function without any legal successor, the governor shall have the right to make his appointment from names submitted by the nominating bodies which are in existence at the time.

Added by Acts 1965, No. 17, §§ 3. Amended by Acts 1972, No. 63, §§ 1.

§§2304. Terms of Office; Vacancies

The parish members of the commission shall serve for terms of six years, except that the initial terms of office shall run from the date of appointment to the following dates:

Two members shall serve to July 1, 1967;

Two members shall serve to July 1, 1969; and

Three members shall serve to July 1, 1971.

The governor shall designate the term of office of each initial parish member when he makes his appointments.

The members-at-large shall serve for a term concurrent with that of the governor by whom appointed.

Any vacancies occurring by reason of expiration of term of office or otherwise shall be filled by appointment of the governor in like manner as the original appointments. An individual appointed to fill a vacancy occurring other than by reason of expiration of term of office shall be appointed to serve only for the unexpired portion of the term.

Members shall continue to serve until their successors have been appointed and have taken their oaths of office and filed the same in accordance with law.

Added by Acts 1965, No. 17, §§ 4.

§§2305. Domicile of Commission; Officers and Employees; per Diem and Travel Allowance

The domicile of the commission shall be in the City of Natchitoches, Parish of Natchitoches, Louisiana; provided, that such domicile may be changed to another location in the district by affirmative vote of not less than six members. As soon as practicable after their appointment, the members of the commission shall meet at its domicile and elect from the membership at least one vice-chairman, a secretary and a treasurer (which latter two offices may be combined). The commission may establish and provide for such other officers, agents and employees as it may deem necessary and appropriate for the accomplishment of its object and purpose, and define the duties, terms and compensation thereof. Immediately upon the organization of the commission and the election of officers, the secretary of the commission shall certify to the secretary of state the names and addresses of such officers. Each member of the commission shall be entitled to receive a stated per diem and travel allowance in such amount and in a maximum annual amount as determined by the commission in a schedule and approved by the governor, when attending upon the business of the commission.

Added by Acts 1965, No. 17, §§ 5.

§§2306. By-laws, Rules and Regulations; Quorum; Proxy

The commission shall adopt such by-laws, rules and regulations as it may deem necessary for its own government and the conduct of its business, including the terms of its officers, not in conflict with this Chapter. A quorum for the transaction of business at meetings shall consist of not less than six members. With reference to salaries and compensation of employees, per diem and travel allowance of members, the incurring of funded, general or bonded debt and the levy of taxes, the affirmative vote of six members shall be necessary; otherwise the affirmative vote of a simple majority of members present shall be sufficient for action. Vote by proxy shall not be permitted.

Added by Acts 1965, No. 17, §§ 6.

§§2307. Meetings

The commission shall meet annually at its domicile on a date to be fixed by the commission. Other regular and special meetings may be held upon such call, after such notice, at such times and at such places within the district as the commission may prescribe and fix in its by-laws, not in conflict with general law. The commission shall cause a record to be kept of all its proceedings and it shall select a newspaper or newspapers of general circulation within the district as its official journal or journals, in which all minutes and official notices shall be published promptly.

Added by Acts 1965, No. 17, §§ 7.

§§2308. Exercise of Powers; Status of Commission

The commission shall constitute an instrumentality of the State of Louisiana exercising public and essential governmental functions; and the exercise by the commission of the powers conferred by this Chapter in the establishment, operation and maintenance of the waterway and the acquisition, construction, operation and maintenance of the various port and related facilities hereinafter authorized shall be deemed and held to be essential governmental functions of the state of Louisiana. As the exercise of the powers granted hereby will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, the commission shall not be required to pay any taxes or assessments upon any property acquired or used by the commission under the provisions of this Chapter, or upon the income therefrom, and any property acquired or used by the commission under the provisions of this Chapter and the income therefrom, and any bonds issued hereunder and the income therefrom shall be exempt from taxation by the State of Louisiana and by any parish, municipality or political subdivision of the state. The commission shall not be deemed to be a public utility and shall not be subject in any respect to the authority, control or supervision of the Louisiana Public Service Commission or any other regulatory body of the state or any political subdivision thereof.

Added by Acts 1965, No. 17, §§ 8.

§§2309. Powers and Authority

In addition to the powers and authority elsewhere granted in this Chapter, the commission is hereby granted, shall have, and may exercise all powers necessary or convenient for the carrying out of its objects and purposes, including, but without limiting the generality of the foregoing, the following:

- (1) to sue and be sued, and as such to stand in judgment;
- (2) to adopt, use and alter at will a corporate seal;
- (3) To acquire by purchase, donation, lease, or otherwise, and to hold and use any property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the objects and purposes of the commission; to sell, lease, transfer, and convey any property or interest therein at any time acquired by it; and to donate by fee simple title, or otherwise convey, to the United States any lands, property, movable and immovable, rights of way, easements or other servitudes, or any of them, which the commission may own or acquire by purchase, donation, expropriation, or otherwise, for use in connection with the construction, improvement, and maintenance of the waterway. The authority granted by this Paragraph shall extend to the acquisition, in any manner herein provided, and the conveyance of lands, servitudes, or rights of way to the United States which are required by the United States Army, Corps of Engineers, for the construction, improvement, and maintenance of locks and dams along the waterway.
- (4)(a) To expropriate property subject to and in accordance with the general laws of the state in reference thereto;
- (b) To expropriate property on sites for Lock and Dam Numbers 3, 4, and 5 and their respective pools in accordance with the provisions of Part XVIII of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950, provided any certificate, authorization, and estimate required for the expropriation shall be signed by the executive director of the commission. However, no property may be expropriated pursuant to this Subsection for recreational purposes.
- (c) Prior to a proceeding authorized by (a) or (b) of this Subsection, the commission shall include with offers of acquisition a current survey or a current aerial map drawn to scale showing all property to be acquired or taken, including batture.
- (5) after a public hearing, held after not less than thirty days notice printed in the official journal, to lease any portion of its lands and property except the waterway to any person, firm, partnership, association, or corporation, public or private, such leases to run for a term not exceeding fifty years;
- (6) to bear the expense, in whole or part, of the relocation, construction and maintenance of public ways within the lands acquired by the commission;
- (7) to effectuate and maintain proper depths of water to accommodate the business of the commission, and to regulate the use of water from the waterway;
- (8) to make and collect reasonable charges for the use of all structures, works, locks, wharves, anchorages and special facilities constructed and administered by the commission, and for any and all services rendered by it, but not for the general right of passage in the waterway, and to regulate reasonably the fees and charges to be made by privately owned wharves, docks, warehouses, elevators and other facilities located on property owned by the commission or located within the right-of-way of the waterway when the same are offered for the use of the public;
- (9) for capital outlay, including the cost of acquisition of rights-of-way and compensation for such severance and other collateral damages necessarily incurred in connection with such acquisition, to levy an annual tax in an amount not exceeding in any one year one and one-half mills on the dollar of the assessed valuation

of all taxable property lying within the district; and for the purpose of maintaining and operating the waterway, to levy an annual tax in an amount not exceeding in any one year one-half mill on the dollar of the assessed valuation of all taxable property lying within the district; provided, that such taxes as may be levied in the district shall be entitled to the benefit and reimbursal authorized by R.S. 39:253;

(10)(a) to incur non-funded debt not to exceed in the aggregate the net of the unpledged estimated alimony revenue for the current year;

(b) to issue certificates of indebtedness due not more than one year after date and as security therefor pledge not to exceed seventy-five per centum of the estimated alimony tax revenue for the current year;

(c) to fund into bonds of the commission from time to time, in such principal amount as may be necessary for the accomplishment of the capital outlay purposes required, all or any portion of the one and one-half mills capital outlay tax hereinabove provided for, and to prescribe the conditions and details of such bonds within the limitations hereinafter set forth.

(11) to enter upon any lands, waters and premises in the state for the purpose of making surveys, soundings, drillings, examinations and appraisals, as it may deem necessary or convenient for the purposes of this Chapter, and such entry shall not be deemed a trespass nor shall such entry for such purpose be deemed an entry under any expropriation proceedings which may be pending, provided that five days registered notice in the case of resident owners and fifteen days registered notice in the case of non-resident owners be given to the owner of record of such lands, waters or premises as reflected by the parish assessment rolls, which notice shall be mailed to the last known address of said owner, as shown on said assessment records. The commission shall make reimbursement for any actual damages resulting to such lands, waters or premises as a result of such activities.

(12) to reimburse the United States for any money spent by it in the acquisition of any lands, property, servitudes, easements, or rights of way for use in connection with the construction, improvement or maintenance of the waterway.

(13) To acquire by purchase or donation, but not by expropriation, and thereafter donate or otherwise convey to the United States any lands, servitudes, or rights of way required by the United States Army, Corps of Engineers for the construction of public recreation sites along the waterway, and if necessary, to expropriate for such purpose not in excess of fifty acres at the site of any lock and dam. The commission shall have no authority under this Paragraph or under Paragraph (3) of this Section to expropriate any land for recreational purposes except as provided in this Paragraph.

(14) To develop hydro-electric power at the various locks and dams located on the Red River.

(15)(a) To lease, without bid, real property acquired by any method authorized under Paragraphs (3) and (4) of this Section to the persons from whom the property was acquired, or their successors in title, and who own adjacent or contiguous property to that which the commission acquired. Such leases shall:

(i) Provide for a fair and equitable return of revenue to the commission based upon the fair market rental value of the property, such rental value to be determined by appraisal based upon the fair market rental value of comparable property not burdened with these restrictions upon the right of lease.

(ii) Be for agricultural purposes of planting, cultivating, growing, and harvesting of agricultural crops and the grazing of animals, excluding timber, or for recreational purposes, provided that any fences, sheds, barns, or other improvements may be placed upon the property only with the expressed consent and permission of the commission, set forth in the lease or in an amendment to the lease, and any such improvements shall, at the sole discretion of the commission, become the property of the commission at the expiration or termination of the lease.

(iii) Provide that the lessee shall be solely liable for any personal injury or property damage to the lessee or to any third party which may arise out of any defects in, or use of, the property and shall require the lessee to defend, indemnify, and hold the commission harmless for any such injuries or damages.

(iv) Provide that the lessee expressly recognize that the property, in whole or in part, may be subject to flooding and other actions of the river, and the lessee shall expressly accept all risks of any personal injury or property damage resulting from such river action, and shall defend, indemnify, and hold the commission harmless from all such injuries or damages.

(v) Provide that the commission shall have, at its sole discretion, the right at any time to terminate the lease upon thirty days' notice with respect to all or any part of the property, or to suspend the effect of the lease for all or any part of the property for such period of time as the commission may stipulate, and in any such event the sole recourse of the lessee shall be to receive a refund of rental payments for such portion of the property and term of the lease as are affected by such action of the commission.

(vi) Provide a term of lease that does not exceed five years, including renewal options, but this provision shall not prohibit entering into successive leases based upon then current appraisals of the fair market rental value of the property.

(vii) Include any other provision not inconsistent with this Section which the commission, in its sole discretion, shall deem appropriate.

(viii) Be signed on behalf of the commission by the executive director.

(b) For all property subject to such leases, the exclusive possession and garde of the property shall be vested in the lessee for all purposes, including the purpose of determining liability for personal injury and property damage to the lessee and third parties for occurrences on or about the property.

(c) All tributaries and distributaries within any property subject to a lease provided for by this Paragraph shall be subject to public access by water without restriction.

(16) The commission shall not lease any waterbody created by river realignment and the public access to those water bodies shall be retained and shall not be restricted.

Added by Acts 1965, No. 17, §§ 9; Amended by Acts 1970, No. 381, §§ 1; Acts 1975, No. 100, §§ 1; Acts 1975, No. 275, §§ §§1, 2; Acts 1984, No. 956, §§ 1; Acts 1984, No. 269, §§ 1; Acts 1988, No. 263, §§ 1, eff. July 7, 1988; Acts 1989, No. 123, §§ 1, eff. June 22, 1989; Acts 1989, No. 829, §§ 1, eff. July 14, 1989; Acts 1993, No. 602, §§ 1, eff. June 15, 1993.

{ {NOTE: SEE ACTS 1984, NO. 956, §§ 2 CONCERNING APPLICATION OF R.S. 34:2309(4)(B). R.S. 34:2309(4)(B) SHALL BE NULL AND VOID ON DEC. 31, 1994, PURSUANT TO ACTS 1989, NO. 123, §§ 1.} }

§§2310. Taxes

The provisions of the constitution and all laws regulating the collection of ad valorem taxes, the creating of tax liens and mortgages, tax penalties and tax sales, shall also apply to the collection of the aforesaid taxes herein authorized. The sheriff and ex-officio tax collector for each of the parishes in the district shall make a monthly settlement with the treasurer of the commission and receive from him a receipt for the amount of the taxes paid over in the same manner as tax collectors are required to settle with the state comptroller. Such tax collector shall receive from the treasurer the same quietus for a full settlement of taxes due and exigible in any given year and account for the delinquents or deductions in the same manner as though accounting to the state comptroller for state taxes. Such tax collector shall be entitled to retain from all taxes collected by him for the commission, the commission thereon allowed him by law on special taxes. Upon failure of any such tax collector to comply with the provisions of this paragraph, the commission shall proceed against him and the sureties on his official bond for the collection of whatever money may be owing to the commission for such special taxes.

Added by Acts 1965, No. 17, §§ 10.

§§2311. Bonds

Such bonds of the commission shall be authorized by a resolution of the commission and shall be of such series, bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates not exceeding six per centum (6%) per annum, payable annually or semi-annually, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration and exchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption not exceeding one hundred five per centum of the principal amount thereof, and be entitled to such priorities on the capital outlay tax of the commission as such resolution or resolutions may provide. So long as any of such bonds are outstanding, such amount of the aforesaid capital outlay tax as may be necessary to pay principal and interest thereof promptly when due, shall be imposed and collected up to the authorized maximum of one and one-half mills. The bonds shall be signed by such officers as the commission shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signatures of such officer or officers of the commission as it shall designate. Any such bonds may be issued and delivered, notwithstanding that one or more of the officers signing such bonds or the officer or officers whose facsimile signature or signatures may be upon the coupons shall have ceased to be such officer or officers at the time such bonds shall actually have been delivered. Said bonds shall be sold for not less than par and accrued interest, to the highest bidder at a public sale after advertisement by the commission at least once a week for three weeks, the first publication to be made at least twenty-one days preceding the date fixed for the reception of bids, in a newspaper of general circulation within the district and in a financial newspaper or journal published in the City of New Orleans, Louisiana, or in the City of New York, New York, reserving to the commission the right to reject any and all bids and to re-advertise.

No proceedings in respect to the issuance of any such bonds shall be necessary except such as are contemplated by this Chapter, and no further or other legislation shall be required to effectuate the same.

For a period of thirty days from the date of publication of the resolution authorizing the issuance of bonds hereunder, any persons in interest shall have the right to contest the legality of the resolution and the legality of the bond issue for any cause, after which time no one shall have any cause or right of action to contest the legality of said resolution or of the bonds authorized thereby for any cause whatsoever. If no suit, action or proceeding is begun contesting the validity of the bond issue within the thirty days herein prescribed, the authority to issue the bonds and to levy the necessary tax for the payment thereof, the legality thereof and of all of the provisions of the resolution authorizing the issuance of the bonds shall be conclusively presumed, and no court shall have authority to inquire into such matters.

Such bonds shall have all the qualities of negotiable instruments under the law merchant and the Negotiable Instruments Law of the State of Louisiana.

Added by Acts 1965, No. 17, §§ 11.

§§2312. Revenue Bonds

In addition to the power and authority to issue bonds payable from the capital outlay tax herein authorized in the manner provided by R.S. 34:2311, the commission shall have the right, power and authority to issue revenue bonds for the purposes and in the manner provided by Part XII, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, except that it shall not be necessary to hold an election to authorize the issuance of such bonds.

Added by Acts 1965, No. 17, §§ 12.

§§2313. Bonds as Legal Investments

All public officers, municipal corporations, political subdivisions and public bodies, all banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; all funds established for pension or other benefits for public employees; and all executors, administrators, tutors, curators, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds of the district or other obligations issued by the commission. These bonds and other obligations are also security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations issued by the commission. However, nothing contained in this section with regard to legal investments relieves any person of any duty of exercising reasonable care in selecting securities. The commission shall not be liable to beneficiaries, minors, wards or interdicted persons for moneys paid to their trustees, tutors or curators on account of such bonds or obligations.

Added by Acts 1965, No. 17, §§ 13.

§§2314. Property

All parishes, cities, towns, villages and other political subdivisions and all public departments, agencies and commissions of the State of Louisiana, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, rent, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such parishes, cities, towns, villages and political subdivisions and departments, agencies or commissions of the state may deem reasonable and fair and without the necessity of any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any real or personal property which may be necessary or convenient to the effectuation of the authorized purposes of the commission, including public roads and other real property already devoted to public use.

Added by Acts 1965, No. 17, §§ 14.

§§2315. Pledge of State

The State of Louisiana hereby pledges to and agrees with the holders of bonds issued by the commission under the provisions of this Chapter, that it will not limit or impair the rights hereby vested in the commission until all such bonds at any time issued, together with the interest thereon, are fully paid and discharged.

Added by Acts 1965, No. 17, §§ 15.

§§2316. Port Development

In order to facilitate the accomplishment of its objects and purposes, the commission is hereby authorized to cooperatively assist in developing ports in conjunction with the port commissions within the district.

Added by Acts 1965, No. 17, §§ 16. Amended by Acts 1993, No. 550, §§ 1.

§§2316.1. Contribution to Port Commission

The commission may periodically, out of its alimony revenues, defray on behalf of ports within the district reasonable charges and expenses in connection with the operations of these ports. Additionally, the commission may, out of such revenues, make reasonable contributions to a port commission to provide all or part of its matching fund requirements as may be made available in order to maximize federal and state participation in the development of the waterway.

Added by Acts 1993, No. 550, §§ 1.

§§2317. Construction of Chapter

This Chapter shall be liberally construed to promote the purposes for which it is enacted.

Added by Acts 1965, No. 17, §§ 17.