

Regular Session, 2001

ACT No. 1209

HOUSE BILL NO. 2072 (Substitute for House Bill 1709 by Representative Diez)

BY REPRESENTATIVE DIEZ

AN ACT

To enact R.S. 36:509(K) and Chapter 29 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 48:2061 through 2073, relative to the Department of Transportation and Development; to create and provide relative to the Louisiana Transportation Authority; to provide for certain definitions; to provide relative to the purpose, powers, jurisdiction, and duties of the authority; to establish a board of directors; to provide relative to directors; to provide relative to bonds, tolls, and other revenue; to provide relative to certain projects, acquisition of land, and utilities; to provide relative to public records; to provide for the cessation of tolls; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:509(K) is hereby enacted to read as follows:

§509. Transfer of agencies to Department of Transportation and
Development

* * *

K. The Louisiana Transportation Authority (R.S. 48:2061 through 2073) is placed within the Department of Transportation and Development and shall perform and exercise its powers, duties,

functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of R.S. 36:801.

* * *

Section 2. Chapter 29 of Title 48 of the Louisiana Revised Statutes of 1950, comprised of R.S. 48:2061 through 2073, is hereby enacted to read as follows:

CHAPTER 29. LOUISIANA TRANSPORTATION AUTHORITY

§2061. Short title

This Chapter shall be known and may be referred to as the "Louisiana Transportation Authority Act".

§2062. Purpose; legislative findings

A. The legislature hereby finds and declares that the development, construction, improvement, expansion, and maintenance of an efficient, safe, and well-maintained intermodal transportation system is essential to promote Louisiana's economic growth and the ability of business and industry to compete in regional, national, and global markets and to provide a high quality of life for the people of this state.

B. Public revenue, including federal funds, has not kept pace with the state's growing transportation system needs. The legislature hereby finds and declares that it is a matter of public necessity to create the Louisiana Transportation Authority, to pursue alternative and innovative funding sources, including but not limited to public/private partnerships and tolls, to supplement public revenue sources and to improve Louisiana's transportation system.

§2063. Definitions:

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

(1) "Act" means the Louisiana Transportation Authority Act.

(2) "Authority" means the Louisiana Transportation Authority created by this Chapter.

(3) "Board" means the board of directors of the authority.

(4) "Bonds" means any bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or any other evidence of indebtedness or evidence of borrowed money issued or entered into by the authority to finance projects.

(5) "Department" means the Department of Transportation and Development.

(6) "Federal government" means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(7) "Person" means any individual, partnership, firm, corporation, company, cooperative, association, society, trust, or any other business unit or entity, including any state or federal agency.

(8) "Project" means any capital project undertaken pursuant to this Chapter including the acquisition of real property, construction, reconstruction, improvement, extension, installation, development, or operation of a tollway. "Project" shall not include the roadway known as the West Bank Expressway in Jefferson Parish.

(9) "Project costs" means all costs associated with and necessary to plan, design, acquire property rights, and to construct a

project, construction costs, and such other expenses as may be necessary or incidental to the construction, financing, and operation of the project.

(10) "Public utility facilities" means tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances which are either publicly or privately owned.

(11) "Real property" means lands, waters, rights in lands or waters, structures, franchises, and interests in land, including lands under water, riparian rights, property rights in air space or subsurface, and any and all other things and rights usually included within said term, including any and all interests in such property less than full title.

(12) "Revenue" means:

(a) Any income, revenue, toll, and receipt derived or to be derived from the construction and operation of projects by the authority or received by the authority from any other sources whatsoever.

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

(c) Monies of the authority generated by taxes which are authorized to be assessed and levied by the legislature or any electorate.

(13) "Secretary" means the secretary of the Department of Transportation and Development.

(14) "State" means the state of Louisiana or any agency or instrumentality thereof.

(15) "State-designated project" means any proposed capital project involving the acquisition of land for, or the acquisition, construction, reconstruction, improvement, installation, extension,

development, or equipping of real property as part of the state highway system or related facilities.

(16) "State highway system" means all roadways, highways, bridges, or tunnels which constitute the state highway system.

(17) "Toll" means any fee or charge for the use of a tollway.

(18) "Tollway" means any highway, bridge, tunnel, or other transportation facility constructed or operated by the authority.

(19) "Transitway" means any fixed guideway facility involving the use of rail.

§2064. Louisiana Transportation Authority; creation; board of directors; meetings; quorum

A. The Louisiana Transportation Authority, hereafter referred to as the "authority", is hereby created possessing full corporate powers, to promote, plan, finance, develop, construct, control, regulate, operate, and maintain any tollway or transitway to be constructed within its jurisdiction.

B. The authority is placed within the Department of Transportation and Development and shall perform and exercise its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of R.S. 36:801.

C. The domicile of the authority shall be East Baton Rouge Parish.

D. The board shall be composed of nine directors who shall be the governing body of the authority with full power to promulgate rules and regulations for the maintenance and operation of said authority.

subject to the approval of the House and Senate Committees on Transportation, Highways and Public Works, as follows:

- (1) The governor or his designee.
- (2) The secretary of the Department of Transportation and Development or his designee, who shall serve as chairman of the board.
- (3) The secretary of the Department of Economic Development or his designee.
- (4) The president of the Louisiana Senate or his designee.
- (5) The speaker of the Louisiana House of Representatives or his designee.
- (6) The chairman of the House Committee on Transportation, Highways and Public Works or his designee.
- (7) The chairman of the Senate Committee on Transportation, Highways and Public Works Committee or his designee.
- (8) One director appointed by the governor from the membership of the Louisiana Planning Council.
- (9) One director appointed by the governor from the state at large and representative of Louisiana business and industry.

E. The directors appointed by the governor shall be subject to Senate confirmation and shall serve at his pleasure, and may be removed at his discretion.

F. The appointed directors shall take and subscribe to the oath of office required of public officials. Appointed directors shall serve until their successors are appointed and sworn into office. Appointed directors may be removed from office for cause by a district court having jurisdiction.

G. A majority of the directors shall constitute a quorum for the transaction of official business. All official actions of the authority shall require an affirmative vote of the directors present and voting at any meeting.

H. Directors of the authority shall not receive any salary for the performance of their duties as directors. Appointed directors may be reimbursed for mileage expenses incurred for attendance at meetings of the authority. The mileage allowance shall be fixed by the authority in an amount not to exceed the mileage allowance authorized under state travel regulations at rates and standards as promulgated by the division of administration subject to the availability of funds.

I. The authority should meet at least quarterly and may meet more frequently upon call of the chairman.

J. The boundary and jurisdiction of the authority shall be statewide, coextensive with the boundaries of the state of Louisiana.

K. The authority created pursuant to this Chapter and all directors thereof shall be subject to the provisions of R.S. 42:1101 et seq.

L. The authority may perform, procure from the Department of Transportation and Development with the consent of its secretary, or procure from outside service providers any service or portion of services necessary to fulfill the duties and obligations of the authority.

§2065. Right of public agencies to material

The authority created pursuant to this Chapter shall be subject to and fully comply with the public records law, R.S. 44:1 et seq., and the open meetings law, R.S. 42:4.1 et seq., of the state. The proceedings and documents of the authority shall be public record. All

reports, maps, or other technical documents produced in whole or in part by the authority may be utilized by the department or any other public agency in any manner that it deems necessary and advisable in the conduct of its duties.

§2066. Establish feasibility; prior written concurrence

A. The authority may construct projects under the terms and conditions set forth in this Chapter, subject to the prior express written concurrence of the secretary. Said projects must be part of the approved transportation plan and program of the department, where applicable.

B. The authority shall conduct an economic feasibility study prior to initiation of any project to substantiate project need and feasibility.

§2067. Jurisdiction; powers of authority

The authority may exercise powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including but not limited to the following rights and powers:

(1) The authority may adopt rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate Transportation, Highways and Public Works Committees, necessary to carry out the purposes of the authority, for the governance of its affairs, and for the conduct of its business.

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

(3) To plan, or construct, reconstruct, maintain, improve, operate, own, or lease projects within its jurisdiction in the manner determined by the authority and to pay any project costs in connection therewith.

(4) To sue and be sued in its own name.

(5) To impose, revise, and adjust from time to time tolls, fees, and charges in connection with its projects sufficient to pay all project costs, maintenance, operation, debt service and reserve or replacement costs, and other necessary or usual charges.

(6) To regulate speed limits on the tollways consistent with state speed limits.

(7) To contract with any person, partnership, association, or corporation desiring the use of any part of a project, including the right-of-way adjoining the paved portion, for placing thereon telephone, fiber optic, telegraph, electric light, or power lines, gas stations, garages, and restaurants, or for any other purpose, and to fix the terms, conditions, rents, and rates of charges limited to no more than the authority's direct and actual cost of administering the permitting process.

(8) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Chapter in accordance with law.

(9) To acquire public or private lands in the name of the authority by purchase, donation, exchange, foreclosure, lease, or otherwise, including rights or easements, or by the exercise of the power of eminent domain in the manner hereinafter provided, as it may deem necessary for carrying out the provisions of this Chapter.

(10) To hold, sell, assign, lease, or otherwise dispose of any real or personal property or any interest therein; to release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it; to take assignments of leases and rentals; to proceed with foreclosure

actions; or to take any other actions necessary or incidental to the performance of its corporate purposes.

(11) To establish control of access, designate the location, and establish, limit, and control points of ingress and egress for each project as may be necessary or desirable in the judgment of the authority to ensure its proper operation and maintenance, and to prohibit entrance to such project from any point or points not so designated, subject to the prior written concurrence of the department when the state highway system is affected.

(12) To relocate parish, municipal, or other public roads affected or severed by authority projects with equal or better facilities at the expense of the authority.

(13) To enter, or authorize its agents to enter, upon any lands, waters, and premises within the geographic boundaries of the authority for the purpose of making surveys, soundings, drillings, and examinations as it may deem necessary or appropriate for the purposes of this Chapter provided that authority shall reimburse any actual damages resulting to such lands, waters, and premises as a result of such activities; such entry shall not be deemed a trespass or unlawful.

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

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

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

(17) To borrow money and issue bonds for any authority purpose.

(18) To enter contracts and agreements and execute all instruments necessary or convenient thereto for accomplishing the purposes of the authority.

(19) To enter into agreements with a public or private entity to construct, maintain, repair, or operate authority projects.

(20) To authorize the investment of public and private money to finance authority projects, subject to compliance with state law relative to use of public funds.

(21) To employ consultants, engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents necessary for the accomplishment of authority purposes, and to fix their compensation.

(22) To exercise the power of eminent domain in accordance with Part XVIII of Chapter 1 of this Title.

(23) To do all acts and perform things necessary or convenient to execute the powers granted to the authority by law.

§2068. State-designated projects; department approval

A. The authority may, upon obtaining the approval of the department, undertake a state-designated project as a project under this Chapter.

B. The department may, upon the request of the authority, in connection with any state-designated project, expend out of any funds available for the purpose such monies and make such use of its engineering and other staff as may be necessary and desirable, in the judgment of the department, for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies. These expenditures shall be reimbursed to the department from the sale of bonds for the project and shall be considered a part of the project cost.

C. The department shall serve as the agent for the authority for the purpose of constructing and completing improvements and extensions to a project, including a state-designated project. In such event, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto; shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements thereto; and shall transfer to the credit of an account of the department in the state treasury the necessary funds therefor. The department shall thereupon proceed with such construction and use the funds for such purpose in the same manner as it is now authorized to use the funds otherwise provided by law for its use in the construction of roads and bridges.

D. Any portion of a project which would interconnect with or otherwise directly affect the operation of any portion of the state highway system or any state-designated project shall be subject to department approval.

E. Notwithstanding any other law to the contrary, the authority organized pursuant to the provisions of this Chapter shall have full power to carry out all of the powers and duties set forth in this Chapter, without the necessity of obtaining the approval or consent of the state, or any state agency, political subdivision, district, authority, or other public entity except as expressly provided for in this Chapter.

§2069. Acquisition of lands and property

A. For the purposes of this Chapter, the authority may acquire private or public property and property rights by donation, purchase, exchange or eminent domain proceedings, as the authority may deem necessary for any authority purpose in the transportation corridor designated by the authority.

B. In the acquisition of land and property rights, the authority may acquire an entire lot, block, or tract of land, if, by so doing, the acquisition cost to the authority will be equal to or less than the cost of acquiring only that portion of the property thereof necessary for the project. This Subsection is a specific recognition that this means of limiting the rising costs of such property acquisition is a public purpose and that, without this limitation, the viability of many public projects will be threatened.

C. The authority may sell, lease, or otherwise dispose of all or any portion of a project, provided that the sale, lease, or other disposition of a state-designated project shall require department

approval. Notwithstanding any law to the contrary, any surplus property may be sold in accordance with procedures adopted by the authority that maximize the price received for such property.

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

§2070. Public utilities

A.(1) The authority shall have the power to make reasonable regulations, not inconsistent with rules and regulations promulgated by the federal government and the department for the installation, construction, maintenance, repair, renewal, relocation, and removal of any public utility, railroad, or pipeline company, in, on, along, over, or under a project.

(2) Whenever the authority shall determine that it is necessary to relocate, remove, or carry along or across an authority project by grade separation, any public utility facilities presently located in, on, along, over, or under an authority project, the owner or operator of such facilities shall relocate or remove the same in accordance with the order of the authority; however, the cost and expense of such relocation, removal, or grade separation, including the cost of installing such facilities in a new location or locations, including the cost of any

land, or any rights or interest in lands, and any other rights acquired to accomplish such relocation or removal, shall be paid as project costs by authority.

(3) In case of relocation or removal, the owners or operators of public utility facilities, their successors or assigns, may use and operate said public utility facilities in the new location or locations upon the same terms and conditions enjoyed prior to relocation or removal.

B. Any utility which requests and is permitted to occupy authority right-of-way shall be responsible for any cost of relocation, removal, or grade separation and all expenses related thereto.

§2071. Contracts; construction; project development; law enforcement

A. Contracts of the authority for the construction, improvement, or maintenance of any authority project shall be made and awarded pursuant to Part XIII of Chapter 1 of this Title.

B. The authority may contract with either the state police, a law enforcement district, or municipal law enforcement agency or may create and form an authority police force to perform law enforcement and patrol functions on any authority project.

§2072. Bonds

A. Without reference to any provision of the Constitution of Louisiana and the laws of Louisiana, and as a grant of power in addition to any other general or special law, the authority created pursuant to this Chapter may issue bonds for any authority purpose and pledge revenues for the payment of the principal and interest of such bonds. The authority is further authorized, in its discretion, to pledge all or any part of any gift, grant, donation, or other sum of money, aid,

or assistance from the United States, the state, or any political subdivision thereof, unless otherwise restricted by the terms thereof, all or any part of the proceeds of bonds, credit agreements, instruments, or any other money of the authority, from whatever source derived, for the further securing of the payment of the principal and interest of the bonds. Any bonds issued pursuant to the provisions hereof shall constitute revenue bonds under Article VII, Section 6 of the Louisiana Constitution and such bonds shall be payable solely from revenues and bond proceeds, pending their disbursement, and investment income thereon.

B. Bonds issued under the provisions of this Chapter shall not be deemed to constitute a pledge of the full faith and credit of the state or of any governmental unit thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the full faith and credit of the state nor the full faith and credit of any public entity of the state are pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this Chapter shall not directly, indirectly, or contingently obligate the state or any governmental unit of the state to levy any taxes whatever therefor or to make any appropriation for their payment, other than obligations to make payments by the state or any public entity to the authority arising out of contracts authorized under this Chapter.

C. Bonds shall be authorized by a resolution of the authority and shall be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including but not limited to fixed, variable, or zero rates, be payable at such time or times, be in such denominations, be in such form, carry such registration and

exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption prior to maturity at such price or prices as determined by the authority, and be entitled to such priority on the revenues as such resolution or resolutions may provide.

D. Bonds shall be sold by the authority at public sale by competitive bid or negotiated private sale and at such price as the authority may determine to be in the best interest of the authority.

E. The issuance of bonds shall not be subject to any limitations, requirements, or conditions contained in any other law, and bonds may be issued without obtaining the consent of the state or any political subdivision, or of any agency, commission, or instrumentality thereof, except that the issuance of such bonds shall be subject to the approval of the State Bond Commission. The bonds shall be issued in compliance with the provisions of this Chapter.

F. For a period of thirty days after the date of publication of a notice of intent to issue bonds in the official journal of authority authorizing the issuance of bonds hereunder, any person in interest shall have the right to contest the legality of the resolution and the legality of the bond issue for any cause, but after that time no one shall have any cause or right of action to contest the legality of the resolution or of the bonds or the security therefor for any cause whatsoever. If no suit, action, or proceeding is begun contesting the validity of the resolution, the bonds or the security therefor within the thirty days herein prescribed, the authority to issue the bonds and to provide 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 to be legal and shall be incontestable. Any notice of intent so published shall set forth in reasonable detail the purpose of the bonds, the security therefor, and the parameters of amount, duration, and interest rates. The authority may designate any paper of general circulation in its geographical jurisdiction to publish the notice of intent or may utilize electronic media available to the general public. Any suit to determine the validity of bonds issued by the authority shall be brought only in accordance with the provisions of R.S. 13:5121 et seq.

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

H. Any pledge of revenues or other monies made by authority shall be valid and binding from the time when the pledge is made. The revenues or monies so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof.

I. Neither the members of the authority nor any person executing the bonds shall be liable personally for the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

J. Bonds of the authority, their transfer, and the income therefrom shall at all times be exempt from all taxation by the state or any political subdivision thereof, and may or may not be exempt for

federal income tax purposes. The bonds issued pursuant to this Chapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds shall be eligible to secure the deposit of any and all public funds of the state and any and all public funds of municipalities, parishes, school districts, or other political corporations or subdivisions of the state. Such bonds shall be lawful and sufficient security for said deposits to the extent of their value. When any bonds shall have been issued hereunder, neither the legislature, the authority nor any other authority may discontinue or decrease the revenues pledged to the payment of the bonds authorized hereunder or permit to be discontinued or decreased said revenues in anticipation of the collection of which such bonds have been issued, or in any way make any change in the allocation and dedication of the revenues which would diminish the amount of the revenues to be received by the authority, until all of such bonds shall have been retired as to principal and interest, and there is hereby vested in the holders from time to time of such bonds a contract right in the provisions of this Section.

K. The authority may provide by resolution for the issuance of refunding bonds pursuant to R.S. 39:1444 et seq.

L. The holders of any bonds issued hereunder shall have such rights and remedies as may be provided in the resolution or trust agreement authorizing the issuance of the bonds, including but not by way of limitation, appointment of a trustee for the bondholders and any other available civil action to compel compliance with the terms and provisions of the bonds and the resolution or trust agreement.

M. Subject to the agreements with the holders of bonds, all proceeds of bonds and all revenues pledged under a resolution or trust agreement authorizing or securing such bonds shall be deposited and held in trust in a fund or funds separate and apart from all other funds of the state. Subject to the resolution or trust agreement, the trustee shall hold the same for the benefit of the holders of the bonds for the application and disposition thereof solely to the respective uses and purposes provided in such resolution or trust agreement.

N. The authority created hereunder is authorized to employ all professionals it deems necessary in the issuance of its bonds.

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

§2073. Conveyance of project; maintenance

When the bonds issued for any state-designated project and the interest thereon have been paid in full, or sufficient funds have been deposited in trust for that purpose, and the state-designated project is in a condition which meets department standards for structural condition and geometric design and is in a condition of maintenance satisfactory to the department, said project and any property acquired for the project may be transferred by the authority in full ownership to the state of Louisiana. The department will assume jurisdiction and control of the project as a part of the state highway system, provided that the legislature authorizes an increase in mileage of the state

highway system equal to the length of the authority project to be transferred. Any authority project transferred to and accepted by the department will be operated and maintained by the department as an integral part of the state highway system, and the department, in the discretion of its secretary, may continue to collect any toll or fee for the purpose of maintenance of the project.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____