

2019 Regular Session

HOUSE BILL NO. 561

BY REPRESENTATIVE ABRAHAM

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

TRANSPORTATION DEPT: Creates and provides relative to the Calcasieu Parish Tolling Authority

1 AN ACT

2 To enact Chapter 36 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 48:2191 through 2204, relative to the creation of the Calcasieu Parish Tolling
4 Authority; to provide for definitions; to establish a board of directors; to specify the
5 purpose, powers, jurisdiction, and duties of the authority; to provide relative to the
6 ethics code and public records; to provide relative to tolls, bonds, and other revenue;
7 to provide relative to certain projects, acquisition of land, and utilities; to provide
8 relative to public-private partnership projects; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 36 of Title 48 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 48:2191 through 2204 is hereby enacted to read as follows:

12 CHAPTER 36. CALCASIEU PARISH TOLLING AUTHORITY

13 §2191. Short title

14 This Chapter shall be known and may be referred to as the "Calcasieu Parish
15 Tolling Authority Act" and derives its statutory authority for creation and
16 implementation from the provisions contained in Chapter 26 of this Title of the
17 Louisiana Revised Statutes of 1950, more specifically referenced as the Louisiana
18 Transportation Development Act. Any provision not contained or addressed in the
19 Calcasieu Parish Tolling Authority Act shall be governed by the Louisiana
20 Transportation Development Act.

1 §2192. Purpose; legislative findings

2 A. The legislature hereby finds and declares that the development,
3 construction, and maintenance of an efficient, safe, and well-maintained intermodal
4 transportation system is essential to improve safety, relieve congestion, promote
5 continued economic growth, and provide an increased quality of life for people of
6 this state.

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

13 C.(1) The legislature hereby finds and declares that it is a matter of public
14 necessity to authorize the Calcasieu Parish Tolling Authority to pursue public-private
15 partnerships or other authorized methods to supplement public revenue sources and
16 to pursue alternative and innovative funding sources to improve Louisiana's
17 transportation system by funding a six-lane bridge, located parallel to the existing
18 Interstate 10 Calcasieu River Bridge, with shoulders, a pedestrian walkway, and
19 related ingress and egress through tolls.

20 (2) The legislature further finds that authorizing the Calcasieu Parish Tolling
21 Authority to contract with private entities for the development or operation of a
22 tollway equipped with tolls will provide significant public benefit for the citizens of
23 Louisiana and minimize the need for the imposition of additional taxes. The public
24 need for timely and cost-efficient development or operation of transportation
25 facilities within the state may not be wholly satisfied by existing methods utilized by
26 public entities to develop and operate qualifying transportation facilities.

27 D. It is the intent of this Chapter to encourage investment in the state of
28 Louisiana by private entities to develop and operate qualifying transportation
29 facilities.

1 §2193. Definitions

2 Unless the text clearly indicates otherwise, the following words or phrases
3 shall have the meanings ascribed to them:

4 (1) "Act" shall mean the Calcasieu Parish Tolling Authority Act.

5 (2) "Authority" shall mean the Calcasieu Parish Tolling Authority created
6 by this Chapter.

7 (3) "Board" shall mean the board of directors of the authority.

8 (4) "Department" shall mean the Louisiana Department of Transportation
9 and Development.

10 (5) "Federal government" shall mean the United States of America and any
11 agency or instrumentality, corporate or otherwise, of the United States of America.

12 (6) "Person" shall mean any individual, partnership, firm, corporation,
13 company, cooperative, association, society, trust, or any other business unit or entity,
14 including any state or federal agency.

15 (7) "Private entity" shall mean a corporation, limited partnership, general
16 partnership, limited liability company, joint venture, business trust, or other business
17 entity.

18 (7) "Project" shall mean any capital project undertaken pursuant to this
19 Chapter, including the acquisition of real property, construction, reconstruction,
20 improvement, extension, installation, development, landscaping, or operation of a
21 tollway.

22 (8) "Project costs" shall mean all costs associated with and necessary to plan,
23 design, acquire property rights, and construct a project, and such other expenses as
24 may be necessary or incidental to the construction, financing, and operation of the
25 project.

26 (9) "Public utility facilities" shall mean tracks, pipes, mains, conduits, cables,
27 wires, towers, poles, and other equipment and appliances which are either publicly
28 or privately owned.

1 (10) "Real property" shall mean lands, waters, rights in lands or waters,
2 structures, franchises, and interests in land, including lands under water, riparian
3 rights, property rights in air space or subsurface, and any and all other things and
4 rights usually included within said term, including any and all interests in such
5 property less than full title.

6 (11) "Revenue" shall mean:

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

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

11 (12) "Secretary" shall mean the secretary of the Louisiana Department of
12 Transportation and Development.

13 (13) "State" shall mean the state of Louisiana or any agency or
14 instrumentality of the state.

15 (14) "Toll" shall mean any fee or charge for the use of a tollway.

16 (15) "Tollway" shall mean any limited access highway, bridge, or other
17 transportation facility constructed or operated by the authority.

18 §2194. Calcasieu Parish Tolling Authority; creation; board of directors; quorum;
19 compensation; meetings

20 A. The Calcasieu Parish Tolling Authority, hereafter referred to as the
21 "authority", is hereby created possessing full corporate powers to promote, plan,
22 finance, develop, construct, control, regulate, operate, and maintain any limited
23 access tollway or transitway to be constructed within its jurisdiction.

24 B. The domicile of the authority shall be Calcasieu Parish.

25 C.(1) The board shall consist of seven directors who shall be the governing
26 body of the authority, with full power to promulgate rules and regulations for the
27 maintenance and operation of said authority, and shall be composed as follows:

28 (a) One person, selected by the governing authority of Jefferson Davis
29 Parish, who resides in Jefferson Davis Parish.

1 (b) One person, selected by the governing authority of Calcasieu Parish, who
2 resides in Calcasieu Parish.

3 (c) One person, selected by the municipal governing authority of the city of
4 Lake Charles, who resides in Lake Charles.

5 (d) One person, selected by the municipal governing authority of the city of
6 Sulphur, who resides in Sulphur.

7 (e) One person, selected by the municipal governing authority of the city of
8 Westlake, who resides in Westlake.

9 (f) Two people selected by the Southwest Louisiana Delegation, one of
10 whom shall be of a minority race.

11 (2) The authority shall elect from its directors a chairman, a vice chairman,
12 and a secretary-treasurer who shall serve one-year terms. The chairmanship for each
13 successive term shall be alternated among the representatives of all municipalities.

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

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

21 F. Directors of the authority shall not be entitled to any salary for the
22 performance of their duties as directors, but each member shall be reimbursed for
23 actual expenses necessarily incurred in the performance of all duties in connection
24 with business of the authority. Appointed directors may be reimbursed for mileage
25 expenses incurred for attendance at meetings of the authority. The mileage
26 allowance shall be fixed by the authority in an amount not to exceed the mileage
27 allowance authorized under state travel regulations, at rates and standards as
28 promulgated by the division of administration subject to the availability of funds.

1 G. The authority shall meet at least quarterly and may meet more frequently
2 upon call of the chairman.

3 H. The boundary and jurisdiction of the authority shall be coextensive with
4 the boundaries of Calcasieu Parish.

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

9 §2195. Conflict of interest; ethics code

10 Any authority created pursuant to this Chapter, and all directors and officers
11 of the authority, shall be subject to the provisions of R.S. 42:1101 et. seq., more
12 specifically referenced as the Code of Governmental Ethics.

13 §2196. Right of public agencies to material

14 The authority created pursuant to this Chapter shall be subject to and fully
15 comply with the public records law pursuant to R.S. 44:1 et seq., and the open
16 meetings law pursuant to R.S. 42:4.1 et seq., of the state. The proceedings and
17 documents of the authority shall be public record. All reports, maps, or other
18 technical documents produced in whole or in part by the authority may be utilized
19 by the authority or any other public agency in any manner that it deems necessary
20 and advisable in the conduct of its duties.

21 §2197. Establish feasibility; prior written approval

22 A. The authority may only construct new additional highway tolls or
23 transitway toll facilities with the prior express written consent of the affected
24 governing bodies within the geographic boundaries of the authority after public
25 hearing, including but not limited to the department.

26 B. Prior to the creation of the authority and the initiation of environmental
27 impact statements, feasibility studies must first be conducted under sponsorship or
28 approval of the department or the metropolitan planning organization, if applicable,
29 to substantiate project need and justification.

1 §2198. Jurisdiction; powers of the authority

2 In addition to having all of the powers granted it by virtue of it being a
3 nonprofit corporation created pursuant to the Louisiana Nonprofit Corporation Law,
4 the authority may exercise powers necessary, appurtenant, convenient, or incidental
5 to the carrying out of its purposes, including but not limited to the following rights
6 and powers:

7 (1) To adopt and amend bylaws, rules, and regulations necessary to carry out
8 the purposes of the authority, for the governance of its affairs, and for the conduct
9 of its business.

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

11 (3) To plan, construct, reconstruct, maintain, improve, install, extend,
12 develop, repair, operate, own, or lease projects within its jurisdiction in the manner
13 to be determined by the authority and to pay any project costs in connection
14 therewith.

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

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

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

21 (7) To contract with any person, partnership, association, or corporation
22 desiring the use of any part of a project, including the right-of-way adjoining the
23 paved portion, for placing thereon telephone, fiber optic, telegraph, electric light, or
24 power lines, gas stations, garages, and restaurants, or for any other purpose, and to
25 fix the terms, conditions, rents, and rates of charges for such use.

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

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

5 (10) To hold, sell, assign, lease, or otherwise dispose of any real or personal
6 property or any interest therein; to release or relinquish any right, title, claim, lien,
7 interest, easement, or demand however acquired, including any equity or right of
8 redemption in property foreclosed by it; take assignments of leases and rentals;
9 proceed with foreclosure actions; or take any other actions necessary or incidental
10 to the performance of its corporate purposes.

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

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

19 (13) To enter or authorize its agents to enter, upon any lands, waters, and
20 premises within the geographic boundaries of the authority for the purpose of making
21 surveys, soundings, drillings, and examinations as it may deem necessary or
22 appropriate for the purposes of this Chapter. Such entry shall not be deemed a
23 trespass or unlawful. The authority shall make reimbursement for any actual
24 damages resulting to such lands, waters, and premises as a result of such activities.

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

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

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

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

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

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

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

18 (21) To employ consultants, engineers, attorneys, accountants, construction
19 and financial experts, superintendents, managers, and such other employees and
20 agents as may be necessary for the accomplishment of its purposes and to fix their
21 compensation.

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

24 §2199. Acquisition of lands and property

25 A. For the purposes of this Chapter, the authority may acquire private or
26 public property and property rights by donation, purchase, or exchange in the
27 transportation corridor designated by the authority, as the authority may deem
28 necessary for any of the purposes provided in this Chapter.

1 B. In the acquisition of land and property rights, the authority may acquire
2 an entire lot, block, or tract of land, if, by so doing, the acquisition cost to the
3 authority will be equal to or less than the cost of acquiring only that portion of the
4 property necessary for the project.

5 C. The authority may sell, lease, or otherwise dispose of all or any portion
6 of a project, provided that the sale, lease, or other disposition of a state-designated
7 project shall require department approval. Notwithstanding any law to the contrary,
8 any surplus property may be sold in accordance with procedures adopted by the
9 authority that maximize the price received for such property.

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

18 §2200. Public utilities

19 A.(1) The authority shall have the power to make reasonable regulations for
20 the installation, construction, maintenance, repair, renewal, relocation, and removal
21 of any public utility, railroad, or pipeline company, in, on, along, over, or under a
22 project.

23 (2) If the authority determines that it is necessary for any public utility
24 facilities to be relocated, removed, or carried along or across an authority project by
25 grade separation, the owner or operator of such facilities shall relocate or remove the
26 same in accordance with the order of the authority; however, the cost and expense
27 of such relocation, removal, or grade separation, including the cost of installing such
28 facilities in a new location or locations, and the cost of any land, or any rights or

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

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

7 B. Notwithstanding the provisions of Subsection A of this Section, any
8 utility allowed to exist on an authority's right-of-way shall be responsible for any
9 cost of relocation, removal, or grade separation and all expenses related thereto.

10 §2201. Contracts; construction; project development; law enforcement

11 A. Contracts of the authority for the construction, improvement, repair, or
12 maintenance of any authority project shall be made and awarded under the same
13 conditions, terms, requirements, and provisions as are provided by law with respect
14 to contracts of the state, parish, or municipality.

15 B. Notwithstanding any law to the contrary, the authority may contract with
16 a private entity to provide services for design, cost estimate, feasibility studies,
17 operations, management, and construction management services, provided that any
18 contract awarded for such services be awarded only after the authority drafts and
19 uses a request for proposal seeking proposals from qualified providers.

20 C. The authority shall contract with either the state police, a law enforcement
21 district, or municipal law enforcement agency to perform law enforcement and patrol
22 functions on any authority project.

23 §2202. Bonds

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

1 assistance from the United States, the state, or any political subdivision of the state,
2 unless otherwise restricted, all or any part of the proceeds of bonds, credit
3 agreements, instruments, or any other money of the authority, from any source
4 derived, for the further securing of the payment of the principal and interest of the
5 bonds.

6 B. Bonds issued pursuant to the provisions of this Chapter shall not be
7 deemed a pledge of the full faith and credit of the state or of any governmental unit
8 of the state. All bonds shall contain a statement on their face substantially to the
9 effect that neither the full faith and credit of the state nor the full faith and credit of
10 any public entity of the state are pledged to the payment of the principal of or the
11 interest on such bonds. The issuance of bonds in accordance with the provisions of
12 this Chapter shall not directly, indirectly, or contingently obligate the state or any
13 governmental unit of the state to levy any taxes or make any appropriation for their
14 payment, other than obligations to make payments by the state or any public entity
15 to the authority arising out of contracts authorized by this Chapter.

16 C. Prior to the issuance of any bonds for a project, a business plan shall be
17 prepared detailing the estimated expenditures for and revenues from the operation
18 of all capital improvements and the time schedule for such expenditures and receipts.
19 The business plan shall be approved by the authority and considered fiscally sound
20 by the financial advisor employed by the authority.

21 D. Bonds shall be authorized by a resolution of the authority and shall be of
22 such series, bear such date or dates, mature at such time or times, bear interest at
23 such rate or rates, including but not limited to fixed, variable, or zero rates, be
24 payable at such time or times, be in such denominations, be in such form, carry such
25 registration and exchangeability privilege, be payable in such medium of payment
26 and at such place or places, be subject to such terms of redemption prior to maturity
27 at such price or prices as determined by the authority, and be entitled to such priority
28 on the revenues as such resolution or resolutions may provide.

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

4 F.(1) The issuance of bonds shall not be subject to any limitations,
5 requirements, or conditions contained in any other law and bonds may be issued
6 without obtaining the consent of the state or any political subdivision, or of any
7 agency, commission, or instrumentality of the state or any political subdivision,
8 except that the issuance shall be subject to the approval of the State Bond
9 Commission.

10 (2) The bonds shall be issued in compliance with the provisions of this
11 Chapter.

12 G.(1) For a period of thirty days after the date of publication of a notice of
13 intent to issue bonds in the official journal of the authority authorizing the issuance
14 of bonds, as provided in this Subsection, any interested person shall have the right
15 to contest the legality of the resolution and the legality of the bond issue for any
16 cause. After that time, no one shall have any cause or right of action to contest the
17 legality of the resolution or of the bonds or the security of the bonds for any cause.

18 (2) If no suit, action, or proceeding is initiated contesting the validity of the
19 resolution, the bonds, or the security for the bonds within the thirty days, as provided
20 by this Subsection, the authority to issue and provide for the payment and legality
21 of the bonds and all provisions of the resolution or other proceedings authorizing the
22 issuance of the bonds shall be conclusively presumed, and no court shall have
23 authority to inquire into such matters.

24 (3) Any notice of intent published shall provide, in reasonable detail, the
25 purpose, security, amount, duration, and interest rates for the bond. The authority
26 may designate any paper of general circulation in its geographical jurisdiction to
27 publish the notice of intent or may utilize electronic media available to the general
28 public.

1 (4) Any suit to determine the validity of bonds issued by the commission
2 shall be brought only in accordance with the provisions of R.S. 13:5121 et seq.

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

5 I. Any pledge of revenues or other monies made by the authority shall be
6 valid and binding from the time the pledge is made. The revenues or monies pledged
7 and subsequently received by the authority shall immediately be subject to the lien
8 of such pledge, without any physical delivery of the pledge or further act, and the
9 lien of any pledge shall be valid and binding against all parties having claims of any
10 kind in tort, contract, or otherwise against the authority, regardless of whether the
11 parties received notice of the claims.

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

15 K.(1) Bonds of the authority, their transfer, and the income arising from the
16 bonds shall, at all times, be exempt from all taxation by the state or any political
17 subdivision of the state and may or may not be exempt for federal income tax
18 purposes.

19 (2) The bonds issued pursuant to this Chapter shall be considered legal and
20 authorized investments for banks, savings banks, trust companies, building and loan
21 associations, insurance companies, fiduciaries, trustees, and guardians and shall be
22 eligible to secure the deposit of any and all public funds of the state and any and all
23 public funds of municipalities, parishes, school districts, or other political
24 corporations or subdivisions of the state. Such bonds shall be lawful and sufficient
25 security for deposits to the extent of their value.

26 L. The authority is authorized to provide for the issuance of refunding bonds,
27 then outstanding and issued, by resolution. The issuance of refunding bonds, the
28 maturities, and other relevant details, the rights and remedies of the bondholders, and

1 the rights, powers, privileges, duties, and obligations of the authority with respect to
2 the same, shall be governed by the provisions of Chapter 26 of this Title.

3 M. The holders of any bonds issued, as provided in this Section, shall have
4 such rights and remedies as may be provided in the resolution or trust agreement
5 authorizing the issuance of the bonds, including but not limited to, appointment of
6 a trustee for the bondholders and any other available civil action to compel
7 compliance with the terms and provisions of the bonds and the resolution or trust
8 agreement.

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

11 O. The authority shall be considered a public entity for purposes of Chapters
12 13, 13-A, 14, 14-A, 14-B, and 15-A of Title 39 of the Louisiana Revised Statutes of
13 1950, as amended, which statutes shall apply to bonds of the authority, provided that
14 in the event of a conflict with the provisions of this Chapter, the provisions of
15 Chapter 26 of this Title shall control.

16 §2203. Conveyance of project; maintenance

17 A. When the bonds issued for any project and the interest on any bond issued
18 have been paid in full, or sufficient funds have been deposited in trust for that
19 purpose, and the project is in a condition which meets department standards for
20 structural condition and geometric design and is in a condition of maintenance
21 satisfactory to the department, such project and any property acquired for the project
22 may be transferred by the authority in full ownership to the state.

23 B. The department shall assume jurisdiction and control of the project as a
24 part of the state highway system, provided that the legislature authorizes an increase
25 in mileage of the state highway system equal to the length of the authority project to
26 be transferred. Any authority project transferred to and accepted by the department
27 will be operated and maintained by the department as an integral part of the state
28 highway system and the department, at the discretion of the secretary, may continue
29 to collect any toll or fee for the purpose of maintenance of the project.

1 §2204. Public private partnership projects

2 A. Any proposal to develop or operate a transportation facility as a public-
3 private partnership project pursuant to this Chapter shall be approved by the
4 authority. Prior to the authority approving a proposal to develop or operate a
5 transportation facility as a public-private partnership, the authority shall submit the
6 proposal to the House and Senate committees on transportation, highways and public
7 works. The chairman of each committee shall call a public hearing within thirty days
8 of receiving the proposal from the authority for the purpose of receiving information
9 and public comments on the proposal. Transportation facility proposals may be
10 initiated by a private entity or by the authority.

11 B. A private entity may submit an unsolicited proposal to the authority to
12 develop or operate a qualifying transportation facility; however, the private entity
13 shall apply to the authority for approval. The authority shall advertise any
14 unsolicited proposal submitted by a private entity for the purposes of receiving
15 competitive proposals for the same proposed qualifying transportation facility.
16 Competitors shall have ninety days from the date of advertisement to submit
17 competitive proposals to the authority. The authority shall charge a reasonable fee
18 to cover its costs to process, review, and evaluate an unsolicited proposal submitted
19 by a private entity. An unsolicited proposal for a qualifying transportation facility
20 submitted by a private entity shall include all the following:

21 (1) A topographic map with a scale of 1:2,000, or other appropriate scale,
22 that delineates the location of the proposed transportation facility.

23 (2) A detailed description of the proposed qualifying transportation facility,
24 including a conceptual design of the facility and all proposed interconnections with
25 existing or planned transportation facilities.

26 (3) The proposed date for acquisition, construction, or improvement of the
27 proposed transportation facility.

28 (4) A statement setting forth the private entity's planned method of
29 acquisition of all property interests required for the proposed qualifying

1 transportation facility, including the nature of the property interests to be acquired
2 and a description of any property the private entity expects to request the authority
3 to acquire.

4 (5) The transportation plan of each affected local jurisdiction, including a
5 statement of the status of the proposed qualifying transportation facility.

6 (6) A preliminary list of local, state, or federal agency permits or approvals
7 expected to be required in order to develop or operate the proposed qualifying
8 transportation facility and a projected schedule for obtaining such permits or
9 approvals.

10 (7) A preliminary list of public utility facilities expected to be crossed or
11 relocated by the proposed qualifying transportation facility and a statement of the
12 plans of the private entity to accommodate or relocate such crossings.

13 (8) A statement detailing the private entity's plan to finance, develop, and
14 operate the proposed qualifying transportation facility, including identification of
15 dedicated revenue sources and proposed debt or equity investments by the private
16 entity or applicable public entities.

17 (9) The names and addresses of the persons who may be contacted for
18 further information concerning the request.

19 (10) Any additional material and information reasonably requested by the
20 authority.

21 C. In the case of solicited proposals, the authority is authorized to request
22 proposals from private entities to develop or operate a transportation facility. The
23 authority may charge a reasonable fee to cover its costs to process, review, and
24 evaluate solicited proposals received in response to such requests.

25 D.(1) The authority may approve the proposal of a private entity to develop
26 or operate a qualifying transportation facility upon finding that the proposal serves
27 a public purpose. The authority shall consider the following factors to determine if
28 a private entity proposal serves a public purpose:

1 (a) There is a public need for a transportation facility or facilities of the type
2 the private entity proposes to develop or operate as a transportation facility.

3 (b) The transportation facility or facilities and the proposed interconnections
4 with existing transportation facilities and the private entity's plans for operation of
5 the qualifying transportation facility or facilities are reasonable and not incompatible
6 with the state transportation plan and with the local governmental entity's
7 comprehensive plan or plans.

8 (c) The estimated cost of the transportation facility or facilities is reasonable
9 in relation to other similar facilities.

10 (d) The private entity's proposal will result in the timely development or
11 more efficient operation of the transportation facility.

12 (2) In evaluating any request, the authority may rely upon internal staff
13 reports prepared by personnel familiar with the operation of similar facilities or the
14 advice of outside advisors or consultants having relevant experience.

15 E.(1) Approval by the authority shall be subject to the private entity's
16 entering into a comprehensive agreement with the authority.

17 (2) The authority shall establish a date to commence the acquisition of
18 property for the construction of a new transportation facility or a date to commence
19 construction of improvements to an established transportation facility. The
20 authority, in its discretion, may grant extensions of such dates.

21 F. The authority shall take appropriate action to protect trade secrets and
22 other confidential, privileged, and proprietary information received from a private
23 entity, including but not limited to information exempt from disclosure under the
24 federal Freedom of Information Act or the Public Records Law. The authority may
25 enter into confidentiality agreements in connection with any private entity proposal,
26 comprehensive agreement, service contract, lease, or agreement for a qualifying
27 transportation facility.

1 G. The authority shall further operate in accordance with the provisions of
 2 R.S. 48:2084.1 through R.S. 2084.15 and any other applicable provision of law
 3 relative to public-private partnership projects.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 561 Engrossed

2019 Regular Session

Abraham

Abstract: Creates the Calcasieu Parish Tolling Authority and provides relative to its purpose, powers, governance, and jurisdiction.

Proposed law designates proposed law as the "Calcasieu Parish Tolling Authority Act" and specifies that present law provides its statutory authority for creation and implementation. Proposed law specifies that any provision not contained or addressed in the Calcasieu Parish Tolling Authority Act will be governed by the La. Transportation Development Act.

Proposed law provides that the legislature finds and declares that the development, construction, and maintenance of an efficient, safe, and well-maintained intermodal transportation system is essential to improve safety, relieve congestion, promote continued economic growth, and provide an increased quality of life for people of this state.

Proposed law provides that public revenue, including federal funds, have not kept pace with the state's growing transportation system needs and declares that it is a matter of public necessity to create the Calcasieu Parish Tolling Authority to pursue alternative and innovative funding sources, including but not limited to public private partnerships and tolls, to supplement public revenue sources and improve the state transportation system.

Proposed law declares that it is a matter of public necessity to authorize the Calcasieu Parish Tolling Authority to pursue public-private partnerships or other authorized methods to supplement public revenue sources and to pursue alternative and innovative funding sources to improve the state's transportation system by funding a six lane bridge, located parallel to the existing Interstate 10 Calcasieu River Bridge, with shoulders, a pedestrian walkway, and related ingress and egress through tolls.

Proposed law provides that authorizing the Calcasieu Parish Tolling Authority to contract with private entities for the development or operation of a tollway equipped with tolls will provide significant public benefit for the citizens of La. and minimize the need for the imposition of additional taxes. Provides that the public need for timely and cost-efficient development or operation of transportation facilities within the state may not be wholly satisfied by existing methods utilized by public entities to develop and operate qualifying transportation facilities.

Proposed law defines "act" as the Calcasieu Parish Tolling Authority Act.

Proposed law defines "authority" as the Calcasieu Parish Tolling Authority created by proposed law.

Proposed law defines "board" as the board of directors of the authority.

Proposed law defines "department" as the La. Dept. of Transportation and Development (DOTD).

Proposed law defines "federal government" as the U.S.A and any agency or instrumentality, corporate or otherwise, of the U.S.A.

Proposed law defines "person" as any individual, partnership, firm, corporation, company, cooperative, association, society, trust, or any other business unit or entity, including any state or federal agency.

Proposed law defines "private entity" as a corporation, limited partnership, general partnership, limited liability company, joint venture, business trust, or other business entity.

Proposed law defines "project" as any capital project undertaken pursuant to this Chapter, including the acquisition of real property, construction, reconstruction, improvement, extension, installation, development, landscaping, or operation of a tollway.

Proposed law defines "project costs" as all costs associated with and necessary to plan, design, acquire property rights, and construct a project, and such other expenses as may be necessary or incidental to the construction, financing, and operation of the project.

Proposed law defines "public utility facilities" as tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances which are either publicly or privately owned.

Proposed law defines "real property" as 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.

Proposed law defines "revenue" as 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 and monies generated by way of contract, pledge, donation, or bequest.

Proposed law defines "secretary" as the secretary of the DOTD.

Proposed law defines "state" as the state of La. or any agency or instrumentality of the state.

Proposed law defines "toll" as any fee or charge for the use of a tollway.

Proposed law defines "tollway" as any limited access highway, bridge, or other transportation facility constructed or operated by the authority.

Proposed law creates the Calcasieu Parish Tolling Authority possessing full corporate powers to promote, plan, finance, develop, construct, control, regulate, operate, and maintain any limited access tollway or transitway to be constructed within its jurisdiction and designates its domicile as Calcasieu Parish.

Proposed law establishes the board of seven directors, identified as the governing body of the authority, with full power to promulgate rules and regulations for the maintenance and operation of the authority.

Proposed law establishes the composition of the board as follows: one person, selected by the governing authority of Jefferson Davis Parish, who resides in Jefferson Davis Parish; one person, selected by the governing authority of Calcasieu Parish, who resides in Calcasieu Parish; one person, selected by the municipal governing authority of the city of Lake Charles, who resides in Lake Charles; one person, selected by the municipal governing authority of the city of Sulphur, who resides in Sulphur; one person, selected by the municipal governing authority of the city of Westlake, who resides in Westlake; and two people selected by the Southwest La. Delegation, one of whom must be of a minority race.

Proposed law requires that the board elect, from its directors, a chairman, a vice chairman, and a secretary-treasurer who will serve one year terms and specifies that the chairmanship for each successive term will be alternated among the representatives of all municipalities.

Proposed law provides that the directors must take and subscribe to the oath of office required of public officials, serve until their successors are appointed and sworn into office, and may be removed from office for cause by a district court having jurisdiction.

Proposed law provides that a majority of the directors will constitute a quorum, official actions of the authority require an affirmative vote of the directors present and voting at any meeting, and specifies that the authority must meet at least quarterly, but may meet more frequently upon the call of the chairman.

Proposed law prohibits the directors from collecting a salary for their service but authorizes reimbursement for actual expenses incurred in the performance of their duties.

Proposed law specifies that the mileage allowance must 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.

Proposed law specifies that the boundary and jurisdiction of the authority is coextensive with the boundaries of Calcasieu Parish.

Proposed law authorizes the authority to perform, procure from the DOTD 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.

Proposed law specifies that the directors and officers of the authority are subject to the code of governmental ethics and requires that the authority comply with public records and open meetings laws.

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

Proposed law provides that the authority may only construct new additional highway tolls or transitway toll facilities with the prior express written consent of the affected governing bodies within the geographic boundaries of the authority after public hearing, including but not limited to the department.

Proposed law specifies that prior to the creation of the authority and the initiation of environmental impact statements, feasibility studies must first be conducted under sponsorship or approval of the department or the metropolitan planning organization, if applicable, to substantiate project need and justification.

Proposed law specifies that the authority has powers granted by virtue of it being a nonprofit corporation and 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) To adopt and amend bylaws, rules, and regulations 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, construct, reconstruct, maintain, improve, install, extend, develop, repair, operate, own, or lease projects within its jurisdiction in the manner to be 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 fix, impose, revise, and occasionally adjust tolls, fees, and charges in connection with its projects sufficient to pay all 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 for such use.
- (8) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under proposed law and in accordance with present 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, in the manner provided by proposed law, as it may deem necessary for carrying out the provisions of proposed law.
- (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; take assignments of leases and rentals; proceed with foreclosure actions; or 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 projects 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 proposed law. Such entry will not be deemed a trespass or unlawful. The authority must make reimbursement for any actual damages resulting to such lands, waters, and premises as a result of such activities.
- (14) To procure insurance in such amount or amounts appropriate to the size of the project, as determined by the board, 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 to conduct 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 board may determine, subject to compliance with state laws relative to investments by political subdivisions.
- (17) To borrow money and issue bonds for any corporate purpose.
- (18) To enter into contracts and agreements and execute all instruments necessary or convenient 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 the use of public funds.
- (21) To employ consultants, engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary for the accomplishment of its purposes and to fix their compensation.
- (22) To do all acts and perform things necessary or convenient to execute the powers granted to the authority by law.

Proposed law authorizes the authority to acquire private or public property and property rights by donation, purchase, or exchange in the transportation corridor designated by the authority, as the authority may deem necessary.

Proposed law authorizes the authority, in the acquisition of land and property rights, the to 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 necessary for the project.

Proposed law allows the authority to 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 requires department approval. Further authorizes that any surplus property be sold in accordance with procedures adopted by the authority that maximize the price received for such property.

Proposed law provides that when the authority acquires property for a project, it is not subject to any liability imposed by preexisting conditions, but it 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.

Proposed law authorizes the authority and the La. Dept. of Environmental Quality to enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

Proposed law authorizes the authority to make reasonable regulations 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.

Proposed law provides that if the authority determines that it is necessary for any public utility facilities to be relocated, removed, or carried along or across an authority project by grade separation, the owner or operator of such facilities must relocate or remove the same in accordance with the order of the authority.

Proposed law specifies that the cost and expense of such relocation, removal, or grade separation, including the cost of installing such facilities in a new location or locations, and the cost of any land, or any rights or interest in lands, and any other rights acquired to accomplish such relocation or removal, must be paid as project costs by the authority.

Proposed law provides that if any relocation or removal must occur, 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.

Proposed law specifies that any utility allowed to exist on an authority's right-of-way is responsible for any cost of relocation, removal, or grade separation and all expenses related thereto.

Proposed law provides that contracts of the authority for the construction, improvement, repair, or maintenance of any authority project must be made and awarded under the same conditions, terms, requirements, and provisions as are provided by present law with respect to contracts of the state, parish, or municipality.

Proposed law specifies that the authority may contract with a private entity to provide services for design, cost estimate, feasibility studies, operations, management, and construction management services, provided that any contract awarded for such services be awarded only after the authority drafts and uses a request for proposal seeking proposals from qualified providers.

Proposed law requires the authority to contract with either the state police, a law enforcement district, or municipal law enforcement agency to perform law enforcement and patrol functions on any authority project.

Proposed law authorizes the authority to issue bonds, pledge revenues, gifts, grants, donations, or other sums of money, aid, or assistance, unless otherwise restricted, and any part of the proceeds of bonds, credit agreements, instruments, or any other money of the authority, from any source derived, for the further securing of the payment of the principal and interest of the bonds.

Proposed law specifies that bonds issued in accordance with the provisions of proposed law are not deemed a pledge of the full faith and credit of the state or of any governmental unit of the state and requires that bonds contain a statement 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.

Proposed law specifies that the issuance of bonds will not directly, indirectly, or contingently obligate the state or any governmental unit of the state to levy any taxes or 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 by proposed law.

Proposed law requires that a business plan be prepared detailing the estimated expenditures for and revenues from the operation of all capital improvements and the time schedule for such expenditures and receipts prior to the issuance of any bond.

Proposed law requires that the business plan be approved by the authority and considered fiscally sound by the financial advisor employed by the authority.

Proposed law requires that bonds be authorized by a resolution of the authority and 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.

Proposed law requires that bonds 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.

Proposed law specifies that the issuance of bonds are not 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 of the state or any political subdivision, except that the issuance must be subject to the approval of the State Bond Commission.

Proposed law requires that the bonds be issued in compliance with the provisions of proposed law.

Proposed law specifies that for a period of 30 days after the date of publication of a notice of intent to issue bonds in the official journal of the authority authorizing the issuance of bonds, any interested person has the right to contest the legality of the resolution and the legality of the bond issue for any cause and indicates that after that time, no one has any cause or right of action to contest the legality of the resolution or of the bonds or the security of the bonds for any cause.

Proposed law specifies that if no suit, action, or proceeding is initiated contesting the validity of the resolution, the bonds, or the security for the bonds within the 30 days, the authority to issue and provide for the payment and legality of the bonds and all provisions of the resolution or other proceedings authorizing the issuance of the bonds must be conclusively presumed, and no court will have authority to inquire into such matters.

Proposed law requires that any notice of intent published provide, in reasonable detail, the purpose of the bonds, the security therefor, and the parameters of amount, duration, and interest rates and authorizes the authority to designate any paper of general circulation in its geographical jurisdiction to publish the notice of intent or utilize electronic media available to the general public.

Proposed law specifies that any suit to determine the validity of bonds issued by the commission must be brought only in accordance with the provisions of present law and all bonds issued pursuant to proposed law must have all the qualities of negotiable instruments under the commercial laws of the state.

Proposed law specifies that any pledge of revenues or other monies made by the authority must be valid and binding from the time the pledge is made. Requires the revenues or monies pledged and received by the authority be immediately subject to the lien of such pledge, without any physical delivery of the pledge or further act, and the lien of any pledge will be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties received notice of the claims.

Proposed law provides that neither the members of the authority nor any person executing the bonds will be liable personally for the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

Proposed law specifies that bonds of the authority, their transfer, and the income arising from the bonds must, at all times, be exempt from all taxation by the state or any political subdivision of the state and may or may not be exempt for federal income tax purposes. Provides that the bonds issued pursuant to proposed law are considered legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians.

Proposed law specifies that the bonds are 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 and are deemed lawful and sufficient security for deposits to the extent of their value.

Proposed law authorizes the authority to provide for the issuance of refunding bonds, then outstanding and issued, by resolution. Specifies that the issuance of refunding bonds, the maturities, and other relevant details, the rights and remedies of the bondholders, and the rights, powers, privileges, duties, and obligations of the authority with respect to the same, will be governed by the provisions of present law.

Proposed law specifies that the holders of any bonds issued have all rights and remedies as may be provided in the resolution or trust agreement authorizing the issuance of the bonds, including but not limited to, 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.

Proposed law specifies that the authority is authorized to employ all professionals it deems necessary in the issuance of its bonds and is considered a public entity for purposes of present law, which statutes must apply to bonds of the authority, provided that in the event of a conflict with the provisions of proposed law, the provisions of present law control.

Proposed law specifies that when the bonds issued for any project and the interest on any bond issued have been paid in full, or sufficient funds have been deposited in trust for that purpose, and the 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, the project and any property acquired for the project may be transferred by the authority in full ownership to the state. Specifies that 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.

Proposed law specifies that 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, at the discretion of the secretary, may continue to collect any toll or fee for the purpose of maintenance of the project.

Proposed law specifies that any proposal to develop or operate a transportation facility as a public-private partnership project pursuant to proposed law must be approved by the authority and prior to the authority approving a proposal to develop or operate a transportation facility as a public-private partnership, the authority must submit the proposal to the House and Senate committees on transportation, highways and public works.

Proposed law requires the chairman of each committee to call a public hearing within 30 days of receiving the proposal from the authority for the purpose of receiving information and public comments on the proposal and specifies that transportation facility proposals may be initiated by a private entity or by the authority.

Proposed law authorizes a private entity to submit an unsolicited proposal to the authority to develop or operate a qualifying transportation facility; however, the private entity must apply to the authority for approval and the authority must advertise any unsolicited proposal

submitted by a private entity for the purposes of receiving competitive proposals for the same proposed qualifying transportation facility.

Proposed law specifies that competitors have 90 days from the date of advertisement to submit competitive proposals to the authority and the authority must charge a reasonable fee to cover its costs to process, review, and evaluate an unsolicited proposal submitted by a private entity.

Proposed law requires that an unsolicited proposal for a qualifying transportation facility submitted by a private entity must include all the following:

- (1) A topographic map with a scale of 1:2,000, or other appropriate scale, that delineates the location of the proposed transportation facility.
- (2) A detailed description of the proposed qualifying transportation facility, including a conceptual design of the facility and all proposed interconnections with existing or planned transportation facilities.
- (3) The proposed date for acquisition, construction, or improvement of the proposed transportation facility.
- (4) A statement setting forth the private entity's planned method of acquisition of all property interests required for the proposed qualifying transportation facility, including the nature of the property interests to be acquired and a description of any property the private entity expects to request the authority to acquire.
- (5) The transportation plan of each affected local jurisdiction, including a statement of the status of the proposed qualifying transportation facility.
- (6) A preliminary list of local, state, or federal agency permits or approvals expected to be required in order to develop or operate the proposed qualifying transportation facility and a projected schedule for obtaining such permits or approvals.
- (7) A preliminary list of public utility facilities expected to be crossed or relocated by the proposed qualifying transportation facility and a statement of the plans of the private entity to accommodate or relocate such crossings.
- (8) A statement detailing the private entity's plan to finance, develop, and operate the proposed qualifying transportation facility, including identification of dedicated revenue sources and proposed debt or equity investments by the private entity or applicable public entities.
- (9) The names and addresses of the persons who may be contacted for further information concerning the request.
- (10) Any additional material and information reasonably requested by the authority.

Proposed law authorizes the authority to request proposals from private entities to develop or operate a transportation facility and charge a reasonable fee to cover its costs to process, review, and evaluate solicited proposals received in response to solicited proposals.

Proposed law authorizes the authority to approve the proposal of a private entity to develop or operate a qualifying transportation facility upon finding that the proposal serves a public purpose and requires the authority to consider the following factors to determine if a private entity proposal serves a public purpose:

- (1) There is a public need for a transportation facility or facilities of the type the private entity proposes to develop or operate as a transportation facility.

- (2) The transportation facility or facilities and the proposed interconnections with existing transportation facilities and the private entity's plans for operation of the qualifying transportation facility or facilities are reasonable and not incompatible with the state transportation plan and with the local governmental entity's comprehensive plan or plans.
- (3) The estimated cost of the transportation facility or facilities is reasonable in relation to other similar facilities.
- (4) The private entity's proposal will result in the timely development or more efficient operation of the transportation facility.

Proposed law permits the authority to rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience when evaluating requests.

Proposed law specifies that the approval by the authority must be subject to the private entity's entering into a comprehensive agreement with the authority and requires the authority to establish a date to commence the acquisition of property for the construction of a new transportation facility or a date to commence construction of improvements to an established transportation facility.

Proposed law permits the authority, in its discretion, to grant extensions of such dates.

Proposed law requires that the authority take appropriate action to protect trade secrets and other confidential, privileged, and proprietary information received from a private entity, including but not limited to information exempt from disclosure under the federal Freedom of Information Act or the Public Records Law.

Proposed law authorizes the authority to enter into confidentiality agreements in connection with any private entity proposal, comprehensive agreement, service contract, lease, or agreement for a qualifying transportation facility.

Proposed law requires the authority to operate in accordance with the provisions of present law relative to public-private partnership projects.

(Adds R.S. 48:2191-2204)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make technical changes.
2. Add one person selected by the governing authority of Calcasieu Parish who resides in Calcasieu Parish to the makeup of the board and remove one person that would have been selected by the Southwest La. Delegation.
3. Delete provisions relative to eminent domain.