

2020 Second Extraordinary Session

SENATE BILL NO. 49

BY SENATOR HEWITT

PORTS/HARBORS/TERMINALS. Provides for the issuance of bonds by the Louisiana International Deep Water Gulf Transfer Terminal Authority. (gov sig) (Item #49)

1 AN ACT

2 To amend and reenact R.S. 34:3492(1), (10), (11), and (14), 3493(A)(1), 3499(F), 3501, and  
3 3503(A)(2) and (3), relative to the Louisiana International Deep Water Gulf Transfer  
4 Terminal Authority; to provide with respect to the issuance of bonds; to revise  
5 definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 34:3492(1), (10), (11), and (14), 3493(A)(1), 3499(F), 3501, and  
8 3503(A)(2) and (3) are hereby amended and reenacted to read as follows:

9 §3492. Definitions

10 For the purposes of this Chapter, unless the context clearly otherwise  
11 requires, the following definitions shall apply and shall be equally applicable to both  
12 the singular and plural forms of any of the defined terms:

13 (1) "Authority development program" means a full and complete plan for the  
14 development, construction, and operation of deep draft ~~container~~ vessel and  
15 intermodal terminal facilities not in existence on July 1, 2008, including but not  
16 limited to research and experimentation; promotion; financing; all phases of  
17 technical development and refinement; construction; operation and maintenance,

1 including renovation, retirement, and reconstruction; regulation of any aspect of ~~such~~  
2 a plan; and any other action the authority deems necessary to the fulfillment of ~~such~~  
3 a plan.

4 \* \* \*

5 (10) "Revenue bond project" or "revenue bond projects" means any one or  
6 more of the facilities authorized to be financed by the issuance of revenue bonds  
7 pursuant to the provisions of R.S. ~~34:3112.1~~ **34:3503**.

8 (11) "Revenue bonds" means any bonds or notes issued pursuant to R.S.  
9 ~~34:3112.1~~ **34:3503**.

10 \* \* \*

11 (14) "Transfer Terminal facilities" or "facilities" means a structure, a series  
12 of structures, or a facility constructed after July 1, 2008, developed pursuant to the  
13 authority development program on the lower end of the east bank of Southwest Pass  
14 in Plaquemines Parish on state owned property and designed to accommodate deep  
15 draft ~~container~~ vessels and their cargoes, including all intermodal structures,  
16 property, and equipment used for transportation, and facilities directly related thereto  
17 and necessary or useful to the operation thereof, whether landward, onshore, or  
18 seaward of the main structures or facilities themselves, including any facility which  
19 is part of a gulf transfer ~~container~~ terminal, as defined herein.

20 §3493. Jurisdiction; domicile

21 A.(1) The Louisiana International Deep Water Gulf Transfer Terminal  
22 Authority shall have only that exclusive jurisdiction as provided herein over a  
23 structure, a series of structures, or a facility constructed after July 1, 2008, at the  
24 lower end of the east bank at Southwest Pass in Plaquemines Parish on state owned  
25 property, described as follows to wit: beginning at a point having latitude 28.953797  
26 degrees north and longitude 89.316072 degrees west; thence proceed to a point  
27 having latitude 28.941817 degrees north and 89.316192 degrees west; thence  
28 proceed to a point having latitude 28.918486 degrees north and 89.336992 degrees  
29 west; thence proceed to a point having latitude 28.918692 degrees north and

1 longitude 89.349631 degrees west; thence proceed to a point having latitude  
 2 28.940650 degrees north and longitude 89.353161 degrees west; thence proceed to  
 3 a point having latitude 28.953931 degrees north and 89.324425 degrees west; thence  
 4 proceed to the point of beginning and designed to accommodate deep draft ~~container~~  
 5 vessels and their cargoes, including all intermodal structures, property, and  
 6 equipment used for transportation, and facilities directly related thereto and  
 7 necessary or useful to the operation thereof, whether landward, onshore, or seaward  
 8 of the main structures or facilities themselves, including any facility which is part of  
 9 a gulf transfer ~~container~~ terminal.

10 \* \* \*

11 §3499. Powers

12 \* \* \*

13 F. The authority may lease or sublease lands leased from the state of  
 14 Louisiana and is authorized to negotiate and enter into leases, subleases, contracts,  
 15 or agreements with any person in order to facilitate the acquisition, construction, or  
 16 operation of terminal facilities constructed or acquired after July 1, 2008, for  
 17 unloading, temporarily storing, and transporting after unloading, ~~containerized~~ cargo  
 18 in accordance with a license or licenses granted by the authority. However, the  
 19 provisions of R.S. 33:4715.1, Chapter 10 of Title 41 of the Louisiana Revised  
 20 Statutes of 1950, and R.S. 38:2211 et seq., shall not apply to this Subsection.

21 \* \* \*

22 §3501. Purchases

23 The authority may purchase machinery and equipment related to the  
 24 operation of deep draft ~~container~~ vessels and intermodal terminal facilities; including  
 25 but not limited to container cranes. The provisions of Part II of Chapter 10 of Title  
 26 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2211 et seq., shall not be  
 27 applicable to ~~such~~ purchases made with nonstate funds.

28 \* \* \*

29 §3503. Additional authorization to issue revenue bonds and notes

1                   A.(1)                                   \*       \*       \*

2                   (2) Authorization of revenue bonds. The authority is hereby authorized to  
3 issue its negotiable revenue bonds in one or more series in ~~such~~ the principal amount  
4 as shall be necessary to provide sufficient monies for payment of project costs of one  
5 or more revenue bond projects **as may be determined by the authority**. The  
6 authority shall have power, from time to time, and subject to agreements with the  
7 holders of its revenue bonds and with the approval of the State Bond Commission,  
8 to issue renewal notes; to issue revenue bonds to pay notes; and, whenever the  
9 authority deems it expedient, to refund any revenue bonds by the issuance of new  
10 revenue bonds, whether the revenue bonds to be refunded have or have not matured,  
11 and may issue revenue bonds partly to refund revenue bonds then outstanding and  
12 partly for any other purpose under this Chapter. Refunding revenue bonds may be  
13 exchanged for outstanding revenue bonds or sold and the proceeds applied to or  
14 deposited in escrow for the purchase, redemption, or payment of revenue bonds and  
15 interest and premiums thereon and for any other purpose specified in the resolution  
16 or trust agreement authorizing or securing ~~such~~ the bonds.

17                   (3) Bond resolution; trust agreement; publication; ~~peremption~~ **preemption**.  
18 The authority shall authorize revenue bonds by one or more resolutions executed by  
19 ~~the secretary of the Department of Transportation and Development~~ **an authorized**  
20 **officer of the board of commissioners** and approved by the State Bond  
21 Commission. Any revenue bonds issued pursuant to this Section also may be secured  
22 by a trust agreement by and between the authority and one or more corporate trustees  
23 or fiscal agents, which may be any trust company or bank having the powers of a  
24 trust company within or without this state. Any resolution authorizing the issuance  
25 of revenue bonds shall be published one time in the official journal of the state;  
26 however, it shall not be necessary to publish any exhibits to ~~such~~ the resolution if the  
27 same are available for public inspection and ~~such~~ this fact is stated in the  
28 publication. For thirty days after the date of publication, any person in interest may  
29 contest the legality of the resolution, any provision of the revenue bonds to be issued

1           pursuant to it, the provisions therein made for the security and payment of the  
 2           revenue bonds, and the validity of all other provisions and proceedings relating to the  
 3           authorization and issuance of ~~such~~ the bonds. After that time, no person may contest  
 4           the regularity, formality, legality, or effectiveness of the resolution, any provisions  
 5           of the revenue bonds to be issued pursuant to it, the provisions for the security and  
 6           payment of the revenue bonds, and the validity of all other provisions and  
 7           proceedings relating to their authorization and issuance, for any cause whatsoever.  
 8           Thereafter, it shall be conclusively presumed that the revenue bonds are legal and  
 9           that every legal requirement for the issuance of the revenue bonds has been complied  
 10          with. No court shall have authority to inquire into any of these matters after the thirty  
 11          days.

\*       \*       \*

13          Section 2. This Act shall become effective upon signature by the governor or, if not  
 14          signed by the governor, upon expiration of the time for bills to become law without signature  
 15          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 16          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 17          effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Sharon F. Lyles.

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DIGEST

SB 49 Original                      2020 Second Extraordinary Session                      Hewitt

Present law provides for definitions of "Authority Development Program", "Revenue bond project", "Revenue bonds", and "Transfer Terminal facilities" or "facilities" applicable to the Louisiana International Deep Water Gulf Transfer Terminal Authority.

Proposed law deletes the word "container" from the definitions of "Authority Development Program" and "Transfer Terminal facilities" or "facilities" and changes statutory references in the definitions of "Revenue bond project" and "Revenue bonds" from R.S. 34:3112.1 relative to bonds of the Offshore Terminal Authority to R.S. 34:3503 relative to bonds of the LA International Deep Water Gulf Terminal Authority.

Present law contains several instances [R.S. 34:3493(A)(1), 3499(F), and 3501] where use of the words "container" or "containerized" restrict or limit the authority.

Proposed law deletes the words "container" or "containerized" to remove the restriction or limitation.

Present law provides for the issuance of revenue bonds by the authority and requires

execution of bond resolutions that authorize revenue bonds by the secretary of DOTD. The secretary is a member of the authority's board of commissioners; however, DOTD has no oversight over the authority.

Proposed law changes present law to provide for execution of the authority's bond resolutions by an authorized officer of the authority's board of commissioners.

Proposed law makes technical corrections.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 34:3492(1), (10), (11), and (14), 3493(A)(1), 3499(F), 3501, and 3503(A)(2) and (3))