

Regular Session, 2008

SENATE BILL NO. 780

BY SENATOR CROWE

PORTS/HARBORS/TERMINALS. Creates the LA International Deep Water Gulf Transfer Terminal Authority. (7/01/08)

1 AN ACT

2 To enact Chapter 49 of Title 34 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 34:3491 through 3506, relative to the Louisiana International Deep Water
4 Gulf Transfer Terminal Authority; to create the authority and provide for a board of
5 commissioners to govern the authority; to provide for the authority's powers, duties,
6 and responsibilities; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 49 of Title 34 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 34:3491 through 3506, are hereby enacted to read as follows:

10 **CHAPTER 49. Louisiana International Deep Water Gulf Transfer**

11 **Terminal Authority**

12 **§3491. Object; purpose of Chapter**

13 **It is the object and purpose of this Chapter to provide for the creation**
14 **of a political subdivision of the state of Louisiana, possessing full corporate**
15 **powers, known as the Louisiana International Deep Water Gulf Transfer**
16 **Terminal Authority, hereinafter referred to as the "authority," to promote,**
17 **plan, finance, develop, construct, control, license, regulate, supervise, operate,**

1 manage, maintain, and modify deepwater terminal facilities to be constructed
2 within the jurisdiction of said authority after July 1, 2008, in order to position
3 Louisiana as an international hub for cargo ships, including super-sized cargo
4 ships.

5 §3492. Definitions

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

9 (1) "Authority development program" means a full and complete plan
10 for the development, construction, and operation of deep draft container vessel
11 and intermodal terminal facilities not in existence on July 1, 2008, including but
12 not limited to research and experimentation; promotion; financing; all phases
13 of technical development and refinement; construction; operation and
14 maintenance, including renovation, retirement, and reconstruction; regulation
15 of any aspect of such a plan; and any other action the authority deems necessary
16 to the fulfillment of such a plan.

17 (2) "Board" means the board of commissioners of the authority or any
18 successor thereto.

19 (3) "Coastal waters of Louisiana" means those waters extending three
20 nautical miles from the coastline, or beyond to the extent of the jurisdiction of
21 the state of Louisiana.

22 (4) "Environmental protection plan" means a written document,
23 prepared in conformity with this Chapter and applicable state, federal, and
24 local laws and regulations.

25 (5) "Licensee" means any persons licensed by the authority to construct,
26 maintain, and operate a terminal facility constructed or acquired after July 1,
27 2008.

28 (6) "Offshore terminal authority" means the authority established
29 pursuant to Chapter 35 of Title 34 of the Louisiana Revised Statutes of 1950,

1 R.S. 34:3101 et seq., and the deepwater port or offshore terminal facility and
2 related facilities and operations of such authority.

3 (7) "Person" means any individual, partnership, corporation,
4 association, governmental subdivision, or public or private organization of any
5 character, other than the authority.

6 (8) "Project costs" means all costs necessary for the planning,
7 development, acquisition, construction, extension, or improvement of a revenue
8 bond project, including the environmental plan, site acquisition and preparation
9 and installation of property and equipment, utilities, architectural, engineering,
10 supervising, accounting, inspection, legal and financing fees and costs,
11 preparation of feasibility studies and reports, interest on revenue bonds and
12 notes during construction or manufacture and for a reasonable period
13 thereafter, establishment of reserves to secure the bonds and notes, and all other
14 expenditures incidental and necessary or convenient therefore.

15 (9) "Public funds" means any funds obtained from legislative
16 appropriation or any form of state or local taxation.

17 (10) "Revenue bond project" or "revenue bond projects" means any one
18 or more of the facilities authorized to be financed by the issuance of revenue
19 bonds pursuant to the provisions of R.S. 34:3112.1.

20 (11) "Revenue bonds" means any bonds or notes issued pursuant to R.S.
21 34:3112.1.

22 (12) "Revenues" include rates, fees, rentals, sales payments, charges,
23 grants, proceeds, and receipts from loan and financing agreements and other
24 receipts and income derived by or for the account of the authority from or in
25 connection with any revenue bond project or arising from such project.

26 (13) "Seven deepwater ports" mean the following:

27 (a) The Board of Commissioners of the Port of New Orleans.

28 (b) The Greater Baton Rouge Port Commission.

29 (c) The Lake Charles Port, Harbor and Terminal District.

1 **(d) The Port of South Louisiana.**

2 **(e) Plaquemines Port, Harbor & Terminal District.**

3 **(f) St. Bernard Port, Harbor & Terminal District.**

4 **(g) The West Cameron Port Commission.**

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

15 **§3493. Jurisdiction; domicile**

16 **A.(1) The Louisiana International Deep Water Gulf Transfer Terminal**
17 **Authority shall have only that exclusive jurisdiction as provided herein over a**
18 **structure, a series of structures, or a facility constructed after July 1, 2008, at**
19 **the lower end of the east bank at Southwest Pass in Plaquemines Parish on state**
20 **owned property and designed to accommodate deep draft container vessels and**
21 **their cargoes, including all intermodal structures, property, and equipment**
22 **used for transportation, and facilities directly related thereto and necessary or**
23 **useful to the operation thereof, whether landward, onshore, or seaward of the**
24 **main structures or facilities themselves, including any facility which is part of**
25 **a gulf transfer container terminal.**

26 **(2) The jurisdiction of the authority shall not include or extend to the**
27 **construction of authority development program facilities, taking control,**
28 **regulation, licensing or operation of existing, proposed or future public or**
29 **private facilities, within the jurisdiction of existing port authorities, port,**

1 harbor and terminal districts, or the offshore terminal authority, except by
2 mutual written agreement of the appropriate existing port authority, port,
3 harbor and terminal district, or offshore terminal authority.

4 (3) Nothing contained in this Chapter shall be construed to affect
5 Louisiana's claim to its tidelands or the location of Louisiana's coastline as
6 interpreted by the state of Louisiana.

7 (4) Nothing in this Chapter shall be construed to limit, restrict, or
8 prevent the ability of any other port authority, port, harbor and terminal
9 district, or offshore terminal authority, to construct, maintain, operate, expand,
10 or create any facility within its jurisdiction.

11 B. The authority shall have the right to acquire by permit, lease,
12 sublease, license, grant, purchase, or otherwise, water bottoms, wetlands, and
13 lands, inside and outside of the territorial limits of the state of Louisiana, for the
14 construction, operation, and maintenance of the facilities functionally required,
15 related, necessary, or useful to the authority development program. However,
16 when such properties or facilities are located within the jurisdiction of existing
17 port commissions or port, harbor and terminal districts, or the offshore
18 terminal authority, the mutual written agreement of the appropriate existing
19 port commission, port, harbor and terminal district, or offshore terminal
20 authority shall be required.

21 C. The authority shall have exclusive power to own, operate, license, or
22 otherwise regulate all terminal facilities within its jurisdiction constructed after
23 July 1, 2008, and property and equipment related to those facilities.

24 D. The domicile of the authority shall be in the parish of Plaquemines.
25 §3494. Board of commissioners; qualifications; term; vacancies; compensation

26 A. The authority shall be governed by a board of ten commissioners,
27 consisting of the secretary of the Department of Economic Development and the
28 secretary of the Department of Transportation and Development and eight
29 commissioners appointed by the governor to be chosen on the basis of their

1 **demonstrated experience in maritime or business leadership, or both, and their**
2 **stature and ability to act effectively for the best interests of Louisiana. Such**
3 **commissioners shall not be appointed or elected commissioners or board**
4 **members of any other Louisiana port.**

5 **B. Commissioners shall be chosen as follows:**

6 **(1) One member shall be selected from a list of three nominees**
7 **submitted by the Ports Association of Louisiana.**

8 **(2) One member shall be selected from a list of three nominees submitted**
9 **by the Louisiana Association of Business and Industry.**

10 **(3) One member shall be selected from a list of three nominees submitted**
11 **by the New Orleans Steamship Association.**

12 **(4) One member shall be selected from a list of three nominees submitted**
13 **by the Louisiana River Pilots Association.**

14 **(5) One member shall be selected from a list of three nominees**
15 **submitted by the North American Exporter Grain Association.**

16 **(6) One member shall be selected from a list of three nominees**
17 **submitted by the Louisiana Mid-Continent Oil and Gas Association.**

18 **(7) One member shall be selected from a list of three nominees**
19 **submitted by the president of the Louisiana State Senate.**

20 **(8) One member shall be selected from a list of three nominees**
21 **submitted by the speaker of the Louisiana House of Representatives.**

22 **(9) The commissioners appointed shall be appointed for terms of seven**
23 **years. A member shall serve until his successor is appointed unless removed as**
24 **provided for in Paragraph (C)(1). A commissioner may be reappointed.**

25 **C.(1) Each appointment by the governor shall be submitted to the Senate**
26 **for confirmation and may be removed by the governor with cause at his**
27 **discretion.**

28 **(2) All vacancies shall be filled in the same manner and the appointee**
29 **shall have the proper qualifications.**

1 D. The members of the board of commissioners shall serve without
2 compensation but shall be reimbursed for travel expenses incurred in attending
3 meetings at rates and standards as promulgated by the division of
4 administration.

5 §3495. Duties of board; officers; rules; meetings; quorum

6 A. The board of commissioners shall be the governing body of the
7 authority with full power to promulgate rules and regulations for the
8 maintenance and operation of said authority, subject to the approval of the
9 house and senate committees on transportation, highways and public works.

10 B. The board of commissioners shall formulate general policy. It shall
11 decide upon all matters relating to the authority development program. It shall
12 adopt an annual operating and capital budget, subject to the approval of the
13 Joint Legislative Committee on the Budget.

14 C. The commissioners shall elect a president from among themselves to
15 serve for a term of two years.

16 D. The executive director, as chosen by the commissioners, shall be the
17 secretary of the board.

18 E. The board of commissioners shall prescribe its own rules, which shall
19 be adopted and promulgated.

20 F. The board of commissioners shall meet at least once every ninety days,
21 or upon the written request of three members, or upon the written request of
22 the president. The board may, upon the affirmative vote of a majority of its
23 members, extend the ninety-day time interval between regular meetings.

24 G. All matters to be acted upon by the board of commissioners shall
25 require the affirmative vote of a majority of the board, with the exception that
26 the affirmative vote of not less than ten commissioners shall be required to
27 select the executive director.

28 §3496. Annual reports; budget unit; funding limitation

29 A. The board of commissioners shall make an annual report to the

1 governor, the house and senate committees on transportation, highways and
2 public works, and the Joint Legislative Committee on the Budget.

3 B. The authority shall comply with the Louisiana Local Government
4 Budget Act.

5 C. Notwithstanding any other law to the contrary, no construction or
6 development project of the authority, or related to the authority, shall be
7 eligible for inclusion in, and the authority shall receive no funds from, the Port
8 Construction and Development Priority Program provided for in Chapter 47
9 of this Title, R.S. 34:3451 et seq.

10 D. The board of commissioners shall annually submit the budget of the
11 authority for review to the Joint Legislative Committee on the Budget.

12 §3497. Executive director; selection; duties; employees; compensation

13 A. The board of commissioners shall select an executive director who
14 shall exercise control over all executive functions and the general operation of
15 the authority. The executive director may employ on a contract basis such other
16 agents, employees, and professional employees, permanent and temporary, as
17 he may require and shall determine their qualifications, duties, and
18 compensation. All employees of the authority shall be responsible to the
19 executive director who shall organize the personnel employed by the authority
20 in the most efficient manner to accomplish the purpose of the authority as
21 provided in this Chapter and by regulations established by the authority's
22 board.

23 B. The executive director, in addition to his usual functions, shall be
24 secretary to the board of commissioners. The board of commissioners shall fix
25 the compensation of the executive director.

26 §3498. Acquisition of sites; lease of state-owned lands and water bottoms

27 A. To enable the authority to perform the work herein provided, the
28 state of Louisiana, acting by and through the commissioner of administration
29 as register of state lands, is hereby authorized, empowered, and directed to

1 grant to the authority a lease on state-owned lands and water bottoms which are
2 selected by the authority as sites for terminal facilities. The mineral rights on
3 any and all state lands shall be reserved to the state of Louisiana.

4 B. The register of state lands shall lease the selected tracts to the
5 authority for one dollar per acre per annum.

6 C. All such leases shall be for a term of not more than ninety-nine years,
7 but the legislature may reevaluate the rental payments upward or downward
8 to reflect changing economic conditions.

9 D. All proceeds arising from the transfer of such leases of state-owned
10 lands and water bottoms shall be paid by the authority to the state treasurer
11 and shall become part of the general fund of the state of Louisiana.

12 E. Nothing in this Chapter is intended to authorize the authority to lease
13 state-owned lands and water bottoms for the exploration, development and
14 production of oil, gas, sulphur, or other minerals, or for the cultivation or
15 production of marine resources or detract from the authority of the State
16 Mineral Board and Louisiana Wildlife and Fisheries Commission to lease for
17 such purposes. However, tracts once leased to the authority may not be leased
18 by the State Mineral Board or the Louisiana Wildlife and Fisheries Commission
19 without the express consent of the authority, unless it can be shown by the State
20 Mineral Board or the Louisiana Wildlife and Fisheries Commission, by clear
21 and convincing evidence, that such lease or leases will not adversely affect
22 present or future authority operations.

23 **§3499. Powers**

24 A. The authority shall be empowered to do any and all things necessary
25 or proper to carry out the purposes of this Chapter, including but not limited
26 to the following:

27 (1) To make such investigations and conduct such investigatory and
28 adjudicatory hearings, by itself or through its executive director, or any person
29 appointed by the authority for that purpose, to develop such facts as may be

1 necessary to assist in assuring compliance with the purposes of this Chapter and
2 the rules, regulations, and orders of the authority.

3 (2) To enter, at all reasonable times, in or upon any private or public
4 property for the purpose of inspecting or investigating conditions in order to
5 ascertain the state of compliance with this Chapter and the rules, regulations,
6 and orders of the authority.

7 (3) To inspect, at reasonable times, relevant records, files, papers,
8 processes, controls, operations, and facilities for the purpose of ascertaining the
9 state of compliance with this Chapter and the rules, regulations, and orders of
10 the authority.

11 (4) To take such actions, promulgate such rules and regulations, subject
12 to the approval of the house and senate committees on transportation, highways
13 and public works and issue such orders, as necessary or appropriate to carry
14 out the provisions of this Chapter.

15 (5) To institute in courts of competent jurisdiction legal proceedings to
16 compel compliance with any order entered by the authority, or with this
17 Chapter or the authority's rules and regulations.

18 (6) To issue licenses, certificates, and permits for the construction and
19 maintenance of terminal facilities or use of services or terminal facilities subject
20 to the authority's jurisdiction, pursuant to rules and regulations promulgated
21 by the authority.

22 (7) To transfer, pursuant to rules and regulations promulgated by the
23 authority, rights of the authority under any license, certificate, permit, or other
24 authorization granted to the authority.

25 (8) To fix reasonable rates, fares, tolls, or charges for the services and
26 terminal facilities within the authority's jurisdiction.

27 (9) To employ such engineers, accountants, attorneys, other
28 professionals, employees, and agents as may be necessary and advisable, and to
29 fix their compensation on a contract or other appropriate basis. However, any

1 legislator or any legal entity in which he has an interest is hereby prohibited
2 from doing business with the authority.

3 B.(1) To assert Louisiana's interest in any offshore terminal facility
4 development after July 1, 2008, in proximity to the Louisiana coast or in any
5 onshore facility, the authority is empowered to negotiate with and enter into
6 contracts, compacts, or other agreements with agencies, bureaus, or other
7 divisions of the federal government or other states of the United States
8 concerning the authority development program, including jurisdictional aspects
9 of the location of any terminal facilities, sharing of revenues derived from the
10 operation of the offshore terminal facilities constructed or acquired after July
11 1, 2008, and promulgation and enforcement of regulations governing authority
12 operations.

13 (2) The authority shall enter into contracts or agreements with the
14 federal government to provide smart bomb detection for all containers entering
15 the jurisdiction of the authority.

16 C. In addition to all other powers granted to the authority, the authority
17 is hereby granted the following powers and duties:

18 (1) To own, construct, operate, maintain, and lease docks, wharves, slip
19 docking facilities, storage facilities, housing and food facilities, heliports, slips,
20 basins, connecting lines of railroads and vessels and other transportation
21 devices and equipment, and works of public improvement necessary or useful
22 for the authority development program.

23 (2) To dredge and maintain shipways, channels, slips, basins, and turning
24 basins.

25 (3) To establish, operate, and maintain navigable waterway systems in
26 cooperation with the federal government, the state of Louisiana, and its various
27 agencies, subdivisions, and public bodies.

28 (4) To acquire by expropriation title to any real property, leaving the
29 ownership of any minerals or mineral rights in the former owners, and the

1 prescription of nonuse shall not run against said minerals or mineral rights. In
2 the event of expropriation, the compensation to be paid shall be the actual
3 market value of the property at the time of taking. In the event of the
4 acquisition of a servitude, or use of any state-owned water bottoms on which
5 there has been granted an oyster lease by the Louisiana Wildlife and Fisheries
6 Commission, the private oyster lessee shall be reimbursed by the authority for
7 the actual market value of said lease.

8 (5) To collect tolls and fees for the use of terminal facilities.

9 (6) To borrow funds for the business of the authority and to use the
10 proceeds of any lease or rental as collateral or as a pledge to secure any
11 indebtedness, all subject to the specific approval of the State Bond Commission.

12 (7) To mortgage properties constructed or acquired by the authority and
13 to mortgage, pledge, and assign any or all right, title, and interest of the
14 authority in any lease, sale, loan, or financing agreement, and the revenues and
15 other advantages arising therefrom.

16 (8) To exercise all powers afforded port commissions and political
17 subdivisions by the laws of the state.

18 (9) To enter into lease, sale, loan, and financing agreements, including
19 binding letters of intent therefor, with licensees pursuant to which licensees
20 agree to acquire, construct, operate, and maintain terminal facilities or evidence
21 their binding intent to do so; to use the proceeds of revenue bonds to pay or
22 reimburse licensees for project costs, including those for which licensees have
23 expended their own funds; and to make payments through fiduciaries to third
24 parties for obligations which licensees have incurred for project costs.

25 (10) In addition to existing constitutional and statutory authority to enter
26 into cooperative endeavor agreements, the authority is hereby authorized to
27 enter into cooperative endeavor agreements with the state and its political
28 subdivisions with respect to the receipt, pledge, dedication and use of public
29 funds with respect to the exercise of any object, purpose, or function of the

1 authority.

2 D. The authority is hereby empowered to take all necessary steps to
3 protect Louisiana's unique coastal environment from any short-term or
4 long-term damage or harm which might occur from any aspect of the authority
5 development program.

6 E. The authority may contract with any agency, public or private, to
7 provide for public utilities on such terms as are agreed upon by the authority
8 and the respective utilities for the financing, construction, and extension of
9 sewerage, water, drainage, electricity, gas, and other necessary public utilities
10 in and through said development.

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

20 G. The authority shall have exclusive and plenary power to issue licenses,
21 certificates, and permits, and otherwise regulate all phases of the construction
22 and operation by any person of terminal facilities within the jurisdiction of the
23 authority. Nothing in this Chapter shall be construed to relieve, exempt, or
24 immunize any person, including the authority, from any environmental or
25 safety requirement or regulation of a local governmental subdivision.

26 §3500. Protection of deepwater ports and pre-existing offshore terminals

27 A. To prevent impairment of the bonds of the seven deepwater ports as
28 defined in Article VI, Section 43 of the Constitution of Louisiana, other non-
29 deepwater ports, harbors, and related authorities, and the deepwater terminal

1 facility of the offshore terminal authority, and to recognize the existing
2 authority of and functions performed by the established ports and harbors of
3 Louisiana, it is hereby recognized that the function, power and authority of the
4 various existing port authorities established pursuant to Article 14, Section 31
5 of the Louisiana Constitution of 1921, and Article VI, Section 43 of the
6 Constitution of Louisiana, the offshore terminal authority, and other non-
7 deepwater ports, harbors, and related authorities established by specific
8 constitutional provision or by state law are not to be diminished by the
9 jurisdiction and powers exercised by the authority except as provided in this
10 Chapter.

11 B. The authority may enter into intergovernmental contract agreements
12 with existing port authorities, individually, with the offshore terminal authority,
13 or with any other parish, city, municipality, or subdivision of the state, and may
14 engage jointly in the exercise of any power or the making of any improvements
15 which each of the participating authorities may exercise or undertake
16 individually under any provision of general or special law.

17 §3501. Purchases

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

23 §3502. Bonds and other debt instruments; procedure for issuance

24 A. The authority is authorized to incur debt and issue bonds and other
25 debt instruments, in accordance with the Constitution of Louisiana and all
26 applicable laws of the state of Louisiana.

27 B. As an additional grant of authority, the authority is authorized, with
28 the approval of the State Bond Commission, to issue negotiable bonds or other
29 debt instruments for any purpose within its delegated authority, and to pledge

1 for the payment of the principal and interest of such negotiable bonds and debt
2 instruments the income and revenues derived or to be derived from the
3 properties and facilities maintained and operated by it or received by the
4 authority pursuant to cooperative endeavor agreements from other sources.

5 C. Such negotiable bonds and debt instruments may be further secured
6 by a conventional mortgage upon any or all of the property constructed or
7 acquired, or to be constructed or acquired by it.

8 D. To further secure such negotiable bonds and debt instruments the
9 authority may apply in whole or part any money received by gift, grant,
10 donation, or otherwise from the United States, the state of Louisiana, or any
11 political subdivision thereof, unless otherwise provided by terms of the gift,
12 devise, donation, or similar grant.

13 E.(1) Such bonds or debt instruments shall be authorized by a resolution
14 of the board of commissioners of the authority and shall be of such series, bear
15 such date or dates, mature at such time or times not exceeding ninety-nine years
16 from their respective dates, bear interest at such rate or rates per annum,
17 payable at such time or times, be in such denominations, be in such form, either
18 coupon or full registered without coupons, carrying such registration and
19 exchangeability privilege, be payable in such medium of payment and at such
20 place or places, be subject to such terms of redemption, and be entitled to such
21 priority on the revenues of the authority as such resolution or resolutions may
22 provide.

23 (2) The bonds or debt instruments shall be signed by such officers as the
24 authority shall determine, and coupon bonds shall have attached thereto
25 interest coupons bearing the facsimile signatures of such officer or officers of
26 the authority as it shall designate. Any such bonds or debt instruments may be
27 issued and delivered, notwithstanding that one or more of the officers signing
28 such bonds or debt instruments or the officers whose facsimile signature or
29 signatures may be upon the coupons or other documents shall have ceased to be

1 such officer or officers at the time such bonds or debt instruments shall actually
2 have been delivered.

3 (3) The bonds or debt instruments shall be sold for not less than par and
4 accrued interest to the highest bidder at a public sale after advertisement by the
5 authority at least seven days in advance of the date of sale, in newspapers or
6 financial journals published at such places as the authority may determine,
7 reserving to the authority the right to reject any and all bids and to readvertise
8 for bids. If, after advertisement, no bids are received, or if such bids as are
9 received are considered in the discretion of the board of commissioners of the
10 authority to be unsatisfactory, then and in that event the board of
11 commissioners may publicly negotiate for the sale of such bonds or debt
12 instruments without further advertisement.

13 (4) No proceedings in respect to the issuance of any such bonds or debt
14 instruments shall be necessary except such as are contemplated by this Section.

15 F. For a period of thirty days from the date of publication of the
16 resolution authorizing the issuance of bonds or debt instruments hereunder, any
17 persons in interest shall have the right to contest the legality of the resolution
18 and the legality of the bond or debt instrument issue for any cause after which
19 time no one shall have any cause or right of action to contest the legality of said
20 resolution or of the bonds or debt instruments authorized thereby for any cause
21 whatsoever. If no suit, action, or proceeding is begun contesting the validity of
22 the bond or debt instrument issue within the thirty days herein prescribed, the
23 authority to issue the bonds or debt instruments and to provide for the payment
24 thereof, and the legality thereof and all of the provisions of the resolution
25 authorizing the issuance of the bonds or debt instruments shall be conclusively
26 presumed, and no court shall have authority to inquire into such matters.

27 G. Such bonds or debt instruments shall have all the qualities of
28 negotiable instruments under the law merchant and the Commercial Laws of
29 Louisiana, and shall be exempt from income and all other taxation of the state

1 of Louisiana.

2 H. No bonds or debt instruments as herein described shall be authorized,
3 issued, or sold except in accordance with specific authorizations hereafter
4 granted by the legislature for each issue.

5 §3503. Additional authorization to issue revenue bonds and notes

6 A.(1) Power to issue bonds and notes. In addition to the power and
7 authority granted to the authority under this Chapter and by other
8 constitutional and statutory authority to the authority as a political subdivision
9 of the state, including but not limited to issuing certificates of indebtedness
10 under the provisions of R.S. 33:2921, et seq.; certificates of indebtedness in the
11 manner provided by R.S. 39:742.2; revenue bonds in the manner provided by
12 R.S. 39:1011, et seq.; revenue bonds under the provisions of R.S. 39:1430;
13 revenue bonds in the manner set forth in R.S. 34:3112, et seq.; revenue bonds
14 under R.S. 39:991.2, et seq.; revenue bonds under R.S. 34:340.1, et seq.; and, in
15 order to carry out the purposes of this Chapter and promote industrial
16 development in the state, the authority is authorized, with approval of the State
17 Bond Commission, to issue its revenue bonds and notes, herein collectively
18 called revenue bonds, as hereinafter provided, to finance or assist in the
19 financing of the development, acquisition, or construction of offshore or onshore
20 terminal facilities, which may be licensed by the secretary of transportation of
21 the United States of America pursuant to the Deepwater Port Act of 1974, as the
22 same may be amended or supplemented from time to time, and to be emplaced
23 within the coastal waters of Louisiana or seaward thereof or land based within
24 the jurisdiction of the authority and all directly related storage facilities and all
25 functionally related and subordinate facilities and equipment therefor located
26 offshore or onshore. The revenue bonds shall be authorized, secured, and have
27 the details and characteristics set out hereunder.

28 (2) Authorization of revenue bonds. The authority is hereby authorized
29 to issue its negotiable revenue bonds in one or more series in such principal

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

14 (3) Bond resolution; trust agreement; publication; peremption. The
15 authority shall authorize revenue bonds by one or more resolutions executed by
16 the secretary of the Department of Transportation and Development and
17 approved by the State Bond Commission. Any revenue bonds issued pursuant
18 to this Section also may be secured by a trust agreement by and between the
19 authority and one or more corporate trustees or fiscal agents, which may be any
20 trust company or bank having the powers of a trust company within or without
21 this state. Any resolution authorizing the issuance of revenue bonds shall be
22 published one time in the official journal of the state; however, it shall not be
23 necessary to publish any exhibits to such resolution if the same are available for
24 public inspection and such fact is stated in the publication. For thirty days after
25 the date of publication, any person in interest may contest the legality of the
26 resolution, any provision of the revenue bonds to be issued pursuant to it, the
27 provisions therein made for the security and payment of the revenue bonds, and
28 the validity of all other provisions and proceedings relating to the authorization
29 and issuance of such bonds. After that time, no person may contest the

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

9 (4) Bond instrument; contents. The resolution or trust agreement shall
10 authorize the development, acquisition, construction, extension, improvement,
11 maintenance, or operation of the revenue bond project or projects to be
12 financed and, in addition, may contain provisions which shall be a part of the
13 contract with the holders of such issue of revenue bonds, as to:

14 (a) Pledging all or any part of revenues received or to be received, and
15 leases or agreements to secure the payment of such issue of revenue bonds.

16 (b) Rates, fees, rentals, or other charges to be established, maintained,
17 and collected, and the use and disposition of revenues, gifts, and funds received
18 or to be received.

19 (c) The setting aside of reserves or retirement funds and the regulation
20 and disposition thereof.

21 (d) The custody, collection, securing, investment, and payment of any
22 monies held in trust or otherwise for the payment of revenue bonds or in any
23 way to secure the payment of revenue bonds, including the establishment and
24 maintenance of construction, revenue, reserve, or other funds as trust funds.

25 (e) Limitations or restrictions on the purposes to which the proceeds of
26 sale of any revenue bonds then or thereafter to be issued may be applied.

27 (f) Limitations or restrictions on the issuance of additional revenue
28 bonds; the terms upon which additional revenue bonds may be issued and
29 secured; and the refunding of outstanding or other revenue bonds.

1 (g) Vesting in one or more trustees or fiscal agents such property, rights,
2 powers, and duties in trust as the authority may determine.

3 (h) The acquisition and disposition of property for revenue bond
4 projects.

5 (i) The rights and remedies available to the bondholders in the event of
6 default.

7 (j) Provisions for insurance and for accounting reports and the
8 inspection and audit thereof.

9 (k) The replacement of mutilated, destroyed, stolen, or lost revenue
10 bonds.

11 (l) Any other matters of like or different character which in any way
12 affect the security or protection of the revenue bonds.

13 (5) Lien and certain details of revenue bonds.

14 (a) All revenue bonds issued pursuant to a resolution or trust agreement
15 hereunder shall be equally and ratably secured by a pledge, charge, and lien
16 upon revenues provided for in the resolution or trust agreement, without
17 priority by reason of number, or of dates of bonds, execution, or delivery, except
18 that the authority may provide in the resolution or trust agreement that revenue
19 bonds issued pursuant thereto shall, to the extent and in the manner prescribed
20 in such resolution or trust agreement, be subordinate and junior in standing,
21 with respect to the payment of principal and interest and the security thereof,
22 to any other revenue bonds. Any pledge made by the authority pursuant to this
23 Paragraph shall be valid and binding from the time when the pledge is made.
24 The revenues, securities, and other monies so pledged and then held or
25 thereafter received by the authority or any fiduciary shall immediately be
26 subject to the lien of such pledge without any physical delivery thereof or
27 further act, and the lien of any such pledge shall be valid and binding as against
28 all parties having claims of any kind in tort, contract, or otherwise against the
29 authority, whether or not such parties have notice thereof. Neither the

1 resolution nor any trust agreement by which a pledge is created need be filed
2 or recorded except in the official minutes of the authority and of the State Bond
3 Commission.

4 (b) The revenue bonds shall be of such series, bear such date or dates, be
5 serial or term bonds, mature at such time or times, bear interest at such rate or
6 rates payable on such date or dates, be in such denominations, be in such form,
7 either coupon or fully registered without coupons, carry such registration and
8 exchangeability privilege, be payable in such medium of payment and at such
9 place or places, be subject to such terms of redemption, and be entitled to such
10 priorities on the revenues of the authority as the resolution or trust agreement
11 authorizing or securing such bonds may provide.

12 (6) Sale of revenue bonds. The revenue bonds shall be sold by the
13 authority with the approval of the State Bond Commission in such manner and
14 at such prices, at public or private sale, as the authority may determine. If the
15 authority determines to sell the bonds at public sale, notice of such sale upon
16 sealed proposals shall be published at least once not less than seven days prior
17 to the date of such sale in a publication carrying municipal bond notices and
18 devoted primarily to financial news or to the subject of state and municipal
19 bonds, published in the city of New York, New York, and in a newspaper of
20 general circulation published in either the city of New Orleans or the city of
21 Baton Rouge, Louisiana.

22 (7) Execution of revenue bonds. The revenue bonds and coupons
23 attached thereto shall be executed in the name of the authority by the manual
24 or facsimile signatures of such official or officials as may be designated in the
25 resolution or trust agreement authorizing their issuance. If any officer whose
26 manual or facsimile signature appears on any revenue bond or coupon ceases
27 to be such officer before the delivery of such bonds, such signature nevertheless
28 shall be valid and sufficient for all purposes as if he had remained in office until
29 such delivery. The resolution or trust agreement may provide for authentication

1 of the bonds by the trustee or fiscal agent thereunder.

2 (8) Temporary revenue bonds. Pending the preparation of definitive
3 revenue bonds, the authority may issue interim receipts or temporary revenue
4 bonds, with or without coupons, exchangeable for definitive revenue bonds
5 when such bonds have been executed and are available for delivery.

6 (9) Nonliability of officers. No member of the board or of the authority
7 and no officer or member of the State Bond Commission or any person
8 executing such revenue bonds shall be liable personally on such bonds.

9 (10) Purchase of revenue bonds. The authority shall have power to
10 purchase its revenue bonds out of any funds available therefor under the
11 resolution or trust agreement authorizing or securing such bonds. It may hold,
12 cancel, or resell such bonds, subject to and in accordance with agreements with
13 holders of its revenue bonds.

14 (11) Negotiability of revenue bonds. All revenue bonds and interest
15 coupons appertaining thereto issued pursuant to this Section shall be and are
16 hereby made negotiable instruments within the meaning of and for all of the
17 purposes of the Commercial Laws of Louisiana, subject only to the provisions
18 of the revenue bonds for registration.

19 (12) Tax exemption and eligibility for investment. All revenue bonds and
20 the income therefrom shall be exempt from all taxation by this state or any
21 political subdivision thereof, except estate or gift taxes and taxes on transfers.
22 The revenue bonds shall be legal and authorized investments for banks, savings
23 banks, insurance companies, homestead and building and loan associations,
24 trustees, and other fiduciaries and may be used for deposit with any officer,
25 board, municipality, or other political subdivision of the state of Louisiana, in
26 any case where, by present or future laws, deposit or security is required.

27 (13) Remedies of bondholders. The holders of any revenue bonds issued
28 hereunder shall have such rights and remedies as may be provided in the
29 resolution or trust agreement authorizing the issuance of the revenue bonds,

1 including but not by way of limitation, acceleration of payment, appointment
2 of a trustee for bondholders, appointment of a receiver for the revenue bond
3 project financed with the proceeds of the revenue bonds or the revenues from
4 such project, and any other available civil action to compel compliance with the
5 terms and provisions of the revenue bonds and the resolution or trust
6 agreement.

7 (14) Limited liability of authority and state. The revenue bonds shall be
8 limited obligations of the authority. The principal of and interest on the revenue
9 bonds shall not be payable from the general funds of the authority, nor shall
10 they constitute a pledge, charge, lien, or encumbrance upon any of its property
11 or upon any of its income, receipts, or revenues except the revenues,
12 agreements, and funds pledged under the resolution or trust agreement
13 authorizing such bonds. Neither the credit nor the taxing power of the state
14 shall be pledged for the payment of such principal or interest, and no holder of
15 revenue bonds shall have the right to compel the exercise of the taxing power
16 by the state or the forfeiture of its property in connection with any default
17 thereon. Every revenue bond shall recite in substance that the principal of and
18 interest on such bond is payable solely from the revenues pledged to its payment
19 and that the authority is not obligated to pay such principal or interest except
20 from such revenues. The face of each interest coupon shall bear a statement to
21 the effect that such coupon is payable solely from certain revenues as set forth
22 in the bond to which such coupon pertains. The revenue bonds issued under the
23 provisions of this Section shall not constitute a debt of this state, and the state
24 shall not be liable thereon.

25 (15) Proceeds and revenues to be deposited in separate funds. Subject to
26 agreements with the holders of revenue bonds, all proceeds of revenue bonds
27 and all revenue pledged under a resolution or trust agreement authorizing or
28 securing such bonds shall be set aside as received and shall be deposited and
29 held in trust by a trustee appointed by the authority in a fund or funds separate

1 and apart from all other funds of the authority. Subject to the resolution or
2 trust agreement, the trustee shall hold the same for the benefit of the holders of
3 the bonds for the application and disposition thereof solely to the respective uses
4 and purposes provided in such resolution or trust agreement.

5 B. Agreement required prior to sale of revenue bonds. Prior to the sale
6 of revenue bonds under this Section, the authority shall either enter into an
7 agreement with a licensee to lease, sublease, or sell the project or projects to
8 such licensee or enter into a loan or other financing agreement with the licensee
9 providing that the licensee will construct, operate, and maintain the revenue
10 bond project or projects. Any such agreement shall set forth the rights, duties,
11 and obligations of the parties thereto; provide for the completion of the revenue
12 bond project or projects from bond proceeds or other sources; provide that
13 neither the state nor the authority shall have any liability or responsibility
14 whatsoever for any loss or damage arising out of the acquisition, construction,
15 operation, and maintenance of such project or projects; and also shall provide
16 for the payment to the authority of such rentals, installment payments, or other
17 monies as will be sufficient to pay the principal of and interest on the revenue
18 bonds issued to finance the revenue bond project or projects and build up and
19 maintain any reserves deemed advisable in connection therewith. This
20 agreement shall be made upon such other terms and conditions and for such
21 time as may be determined by the authority and may contain provisions
22 authorizing the sale, resale, lease, sublease, or purchase of the entire revenue
23 bond project, or any portion thereof, for such consideration and upon such
24 terms and conditions as the authority may determine.

25 C. Construction of Section. The powers and rights conferred by this
26 Section shall be in addition and supplemental to the powers and rights
27 conferred by any other general or special law. This Section does and shall be
28 construed to provide a complete and additional method for the doing of the
29 things authorized thereby. The State Bond Commission is vested with and is

1 hereby granted the right, power, and authority to do, perform, and exercise for
2 and on behalf of the authority and its board of commissioners, all acts and
3 things required to be done and performed in connection with the authorization
4 and issuance of revenue bonds under this Section.

5 D. Prohibition against pledge of full faith and credit of state.
6 Notwithstanding any other provisions of this Section, the state of Louisiana shall
7 not pledge its full faith and credit to the payment of any obligations under the
8 terms of any lease entered into by it under this Section.

9 §3504. Issuance and transfer of licenses

10 A. No person shall construct or operate, or cause to be constructed or
11 operated, terminal facilities after July 1, 2008, within the jurisdiction of the
12 authority without first obtaining a license, the transfer of any license granted
13 to the authority, or other appropriate authorization from the authority.

14 B. A license shall be issued, any license granted to the authority shall be
15 transferred, or other appropriate authorization granted, only if the authority
16 finds that the applicant or transferee is qualified, and that the facilities or
17 operations conform to the provisions of this Chapter and the rules and
18 regulations of the authority and will be consistent with the public interest
19 declared in this Chapter. Any license so issued or transferred or other
20 appropriate authorization shall be subject to and contain such reasonable
21 conditions as necessary to carry out the purposes of this Chapter.

22 C. The authority shall establish such other qualifications for applicants
23 or transferees, which may include evidence of financial responsibility or
24 performance bonds, as will ensure an applicant's or transferee's ability to
25 comply with this Chapter and the rules and regulations of the authority.

26 D. The authority shall establish the procedures for submission of
27 applications for the issuance of licenses, the transfer of any license granted to
28 the authority, or the issuance of other appropriate authorization, and shall
29 determine what information must be submitted by the applicant. The authority

1 may impose reasonable filing fees and may require the applicant to reimburse
2 the authority for all expenses incurred in processing the application.

3 E. The authority shall determine the length of time during which a
4 license shall be valid, and the conditions upon which it may be revoked. The
5 transfer by the authority of any of its rights under a license, certificate, permit,
6 or authorization granted to the authority shall be for the term specified in the
7 original authorization to the authority. Licenses may be revoked, suspended,
8 annulled, or withdrawn in accordance with the procedures established by the
9 authority.

10 F. Rules, regulations, and procedures pursuant to the provisions of this
11 Section shall be adopted and promulgated in accordance with the provisions of
12 the Administrative Procedure Act, and shall be subject to approval by the house
13 and senate committees on transportation, highways and public works.

14 §3505. Remedies and enforcement

15 In addition to all other rights herein granted, the authority and the
16 courts shall have the power to assure compliance with the purposes of this
17 Chapter as follows:

18 (1) If the authority's board of commissioners or executive director has
19 reasonable cause to believe that there exists a violation of this Chapter or of the
20 authority's rules and regulations, which could result in irreparable injury to the
21 authority's operations, the environment, or the public interest, the authority
22 may petition a court of competent jurisdiction for appropriate mandatory,
23 injunctive, or other relief pending final adjudication of such matters.

24 (2) The authority may issue such orders as the public interest and
25 equities of the case may require, and as may be necessary to effectuate the
26 purposes of this Chapter, including but not limited to cease and desist orders,
27 revocation of or other appropriate action affecting licenses issued by the
28 authority, and such affirmative action as may be appropriate.

29 (3) In the event that the authority should determine that any order made

1 by it, and not then the subject of judicial review, is being violated, the authority
2 may institute a civil action in any court of competent jurisdiction, for
3 enforcement of the authority's order. The enforcement proceeding shall be
4 confined to the record before the authority. The court may enforce, remand,
5 reverse, or modify the order of the authority.

6 §3506. Coordination and cooperation

7 A. It is the policy of this Chapter that the authority development
8 program be pursued so that there is full coordination and cooperation between
9 agencies and groups that have complementing or overlapping interests with the
10 authority. It is not the policy of this Chapter that the authority development
11 program be pursued independently and with a view toward narrow, short-term
12 interests.

13 B. The board of commissioners shall take affirmative steps to ensure that
14 the authority development program develops programs for, or is coordinated
15 into the planning programs of other modes of transportation, to include rail,
16 road, waterway, air, and pipeline, so that there is a long-term and orderly
17 pursuit of transportation services in the coastal zone or related to the facility
18 which are interrelated and coordinated so as to achieve the most efficient and
19 economical transportation program that is feasible and that will be least
20 destructive of other values in the state.

21 C. The board of commissioners shall ensure that the appropriate federal
22 agencies which are required by federal law to plan or regulate transportation
23 facilities or programs are consulted regularly and are fully involved in the
24 authority development program where appropriate.

25 Section 2. This Act shall become effective on July 1, 2008; if vetoed by the governor
26 and subsequently approved by the legislature, this Act shall become effective on July 1,
27 2008, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Cathy Wells.

DIGEST

Proposed law creates the LA International Deep Water Gulf Transfer Terminal Authority as a political subdivision of the state, possessing full corporate powers to promote, plan, finance, develop, construct, control, license, regulate, supervise, operate, manage, maintain and/or modify offshore or onshore terminal facilities to be constructed within the jurisdiction of said authority after July 1, 2008, providing a port with "terminal and intermodal facilities" for the handling of containerized cargo of deeper draft container vessels. The port is to accommodate and to plan for the technological innovations occurring in the worldwide and domestic shipping industry, including shipment by containers, to increase efficiency and the flow of commerce through the offshore or onshore "terminal facilities". Also, the purpose is to create a state agency to serve as an agency to assist "licensees" in the financing of offshore or onshore "terminal facilities".

"Terminal facilities" or "facilities" is defined as a structure, a series of structures, or a facility of any type constructed after July 1, 2008 within the coastal waters of Louisiana or seaward thereof, or within any area of the territorial jurisdiction of the authority, and designed to accommodate deep draft container vessels and their cargoes, including all intermodal structures, property and equipment used for transportation, and facilities directly related thereto and necessary or useful to the operation thereof, whether landward, onshore, or seaward of the main structures or facilities themselves, including any facility which is part of a container terminal port.

Proposed law provides "exclusive jurisdiction" to the authority over the "authority development program" (defined as a plan for anything necessary for the development, construction, and operation of deep draft container vessel and intermodal terminal facilities) within those coastal waters of the state and over such other waters, waterbottoms, wetlands, and lands within the state necessary to effectuate the purposes of the proposed law. Specifies, however, that such jurisdiction does not extend over existing, proposed, or future facilities of existing ports or the offshore facilities authority except by mutual written agreement. The authority has the right to acquire waterbottoms, wetlands, and lands inside and outside the state for such facilities. However, such activities, acquisitions, and facilities within the jurisdiction of existing port, and port, harbor, and terminal authorities, and the offshore terminal authority, require the mutual written agreement of the appropriate authority.

"Authority development program" is defined as a plan for the development, construction, and operation of offshore or onshore terminal facilities not in existence on July 1, 2008, including but not limited to research and experimentation; promotion; financing; technical development and refinement; construction; operation and maintenance, including renovation, retirement, and reconstruction; regulation of any aspect of such a plan; and any other action the authority deems necessary to the fulfillment of the plan.

Proposed law recognizes the authority of all other existing ports, the offshore terminal authority, and other ports, harbors, and related authorities established by specific constitutional provision are not to be diminished by the jurisdiction and powers exercised by the authority except as provided in the proposed law.

Proposed law authorizes the authority to enter into intergovernmental contract agreements with existing port authorities, individually, with the offshore terminal authority, or with any other parish, city, municipality or subdivision of the state, and to engage jointly in the exercise of any power, the making of any improvements which each of the participating authorities may exercise or undertake individually under any provision of general or special law.

Proposed law provides that the authority, in establishing or enacting its rates and charges for cargo must consider the overall economic impact on the economy of the six deepwater ports and the offshore terminal authority, and its charges and rates are required to be

"compensatory."

Proposed law confers "exclusive power" on the authority to own, operate, license or otherwise regulate all terminal facilities within its jurisdiction constructed after July 1, 2008 and property and equipment related to those facilities. In addition, specifically authorizes the authority to own, construct, operate, lease and maintain any railroad belt or connecting lines constructed after July 1, 2008 which is necessary for the program.

Proposed law creates a board of commissioners to be appointed by the governor to serve for 7 year terms of office and the secretaries of the departments of DOTD and LED as two ex-officio non-voting members. Maritime appointees are allowed notwithstanding the prohibitions in the ethics code. However, a commissioner cannot be a commissioner or board member of another port.

Proposed law requires the commissioners to elect a president from among themselves to serve for a term of 2 years. They choose an executive director for a term of not less than 1 nor more than 3 years, and fix his compensation. He may be removed by the board for cause.

Proposed law provides for the commissioners to serve without compensation, but be reimbursed for travel expenses incurred in attending meetings, at rates and standards as promulgated by the division of administration.

Proposed law authorizes the board of commissioners to promulgate rules and regulations for the maintenance and operation of the authority, and adopts rules for its own operation.

Proposed law provides that the executive director is secretary to the board and is authorized to employ "on a contract basis" such other agents, employees, professional employees, permanent and temporary, as he requires and he determines their qualifications, duties, and compensation. Proposed law authorizes the authority itself to employ such engineers, accountants, attorneys, other professionals, employees and agents as may be necessary and advisable, and fix their compensation on a contract "or other appropriate basis."

Proposed law specifically prohibits anyone from constructing or operating terminal facilities constructed after July 1, 2008 "within the jurisdiction of the authority" without first obtaining a license from the authority or other authorization. Requires the authority to establish a procedure for application and issuance of licenses, including filing fees and reimbursement of expenses. The authority must find the licensee qualified under its rules and regulations and must determine the length of the license and conditions for its suspension, revocation, annulment, or withdrawals. The authority is specifically required to promulgate these regulations pursuant to the APA.

Proposed law specifically authorizes the authority to purchase machinery and equipment related to the operation of deep draft container vessel and/or intermodal terminal facilities, including but not limited to container cranes.

Proposed law excepts these purchases from the provisions of the public bid law.

Proposed law authorizes the board to:

1. Make investigations and hold adjudicatory hearings, including entering upon any private or public property and inspecting records and facilities to ascertain compliance, and issue orders and take such actions necessary to enforce compliance with, the proposed law and the authority's rules and regulations, which it is given specific permission to promulgate.
2. Issue licenses, certificates, and permits for the construction and maintenance of its facilities or for use of services or facilities subject to the authority's jurisdiction, pursuant to its regulations. They are not transferable without the permission of the

authority.

3. Transfer rights under any license, certificate, permit, or other authorization granted to the authority.
4. Fix reasonable and just rates, fares, tolls or charges for the services and facilities within the authority's jurisdiction.
5. To acquire by expropriation, leaving the mineral rights to the former owners of the property, the compensation to be paid being the actual market value of the property at the time of taking. In the event of the acquisition of a servitude, or use of any state-owned waterbottoms on which there has been granted an oyster lease by the LWFC, the private oyster lessee is to be reimbursed for the actual market value of the lease.
6. To make loans only from funds obtained from the sale of revenue bonds for the purpose of financing or refinancing a revenue bond project or projects; to collect interest and pledge the proceeds as security.
7. Negotiate with and enter into contracts, compacts or other agreements with the federal government concerning the authority development program, including jurisdictional aspects of the location of any terminal facilities, sharing of revenues derived from the operation, in order to "assert the state's interest" in any terminal facility developed after July 1, 2008.
8. To acquire by permit, lease, sublease, license, grant, purchase, or otherwise, water bottoms, wetlands, and lands, inside and outside of the territorial limits of the state of Louisiana, for the construction, operation and maintenance of facilities "functionally required," related, necessary or useful to the "authority development program."
9. To adopt an environmental protection plan which conforms to the proposed law and applicable state, federal, and local laws and regulations.

Proposed law authorizes the board to:

1. Own, construct, operate, maintain, and lease docks, wharves, sheds, elevators, pipelines, pumping stations and related facilities, storage facilities, housing and food facilities, heliports, locks, slips, laterals, basins, warehouses, and all other property, structures, equipment, and facilities except elevators, and including belt and connecting lines of railroads, and vessels and other transportation devices and equipment.
2. To dredge and maintain shipways, channels, slips, basins, and turning basins.
3. To establish, operate, and maintain navigable waterway systems in cooperation with the federal government, the state and its subdivisions.
4. To borrow from any person using or renting any facility of the authority such sums as are necessary to improve or construct the borrowed property, and to agree that the loan will be liquidated by deducting from charges for the borrowed property, a certain percentage.
5. To collect tolls and fees for the use of the terminal facility.
6. To mortgage its properties and the revenues and other advantages arising therefrom.
7. To enter into agreements with licensees in which licensees agree to acquire,

- construct, operate, and maintain terminal facilities; and to use revenue bond proceeds to reimburse them for costs.
8. To contract with any agency, public or private, to provide for necessary public utilities in and through the development.
 9. To lease or sublease lands leased from the state and to lease, sublease, or otherwise agree with any person to facilitate the acquisition of offshore or onshore terminal facilities acquired after July 1, 2008, for unloading, temporarily storing, and/or transporting after unloading containerized cargo in accordance with a license or licenses granted by the authority. Proposed law excepts these agreements from the provisions of the public bid law.

Proposed law contains provisions authorizing the authority to incur debt and issue bonds and/or other debt instruments with the approval of and sold by the state bond commission and with "specific authorizations" granted by the legislature for each issue. The bonds are limited to revenue bonds which pledge for their payment the income and revenues derived or to be derived from the properties and facilities maintained and operated by the authority or received from other sources. The bonds are specifically tax exempt, except estate or gift taxes and taxes on transfers.

Proposed law provides that the revenue bonds are to be limited obligations of the authority. They can not be payable from the general funds of the authority, but only revenues, agreements, and funds pledged under the resolution or trust agreement authorizing the revenue bonds. Neither the credit nor the taxing power of the state is pledged for their payment, and there is a prohibition of the state pledging its full faith and credit to the payment of "any obligations under the terms of any lease entered into by the authority." The bond authority in proposed law is in addition to and supplemental to the authority conferred by any other general or special law. The secretary of DOTD is authorized to perform, and exercise for and on behalf of the authority and the board, all acts required to be done in connection with the authorization and issuance of revenue bonds.

Proposed law authorizes the board of commissioners or executive director to petition a court of competent jurisdiction, for appropriate mandatory, injunctive or other relief pending final adjudication, or to enforce its orders. Authorizes the authority to issue such orders as the public interest and equities of the case may require, and as may be necessary to effectuate the proposed law's purposes, including but not limited to: cease and desist orders; revocation of, or other appropriate action affecting, licenses issued by the authority; and such affirmative action as may be appropriate.

Proposed law requires "full coordination and cooperation" between agencies and groups that have complementing or overlapping interests.

Proposed law requires that authority is required to "take affirmative steps" to insure that the program develops programs for, or is coordinated into the planning programs of, modes of transportation, to include rail, road, waterway, air and pipeline, so that there is a long-term and orderly pursuit of transportation services in the coastal zone so as to achieve the most efficient and economical transportation program that is feasible and that will be least destructive of other values in the state. Federal agencies must be consulted regularly and must be fully involved.

Proposed law authorizes the commissioner of administration as register of state lands to grant to the authority a lease on state-owned lands and water bottoms which are selected by the authority as sites for terminal facilities; provided that the mineral rights are reserved to the state. They must be leased for 1 dollar per acre per annum for a term of 99 years. However, the legislature may reevaluate the rental payments upward or downward to reflect changing economic conditions. All proceeds are paid into the general fund.

Proposed law specifically prohibits the authority from leasing state-owned lands and water bottoms for mineral exploration and production or for the cultivation or production of marine resources. Specifies that nothing in the proposed law is to detract from the authority of the State Mineral Board and/or LWFC to lease for such purposes. However, tracts leased to the authority may not be leased by either without the express consent of the authority, unless they can show by clear and convincing evidence the leases will not adversely affect present or future authority operations.

Proposed law requires the board of commissioners to make an annual report to the governor concerning the expenses and operation of the program and the terminal. The authority is to be a budget unit of the state and is subject to all provisions of law applicable to budget units and all other provisions of law applicable to state agencies unless the proposed law provides to the contrary.

Proposed law makes the authority and its projects ineligible for Port Priority Program funds.

Effective on July 1, 2008.

(Adds R.S. 34:3491 - 3506)