

Regular Session, 2003

ACT No. 893

HOUSE BILL NO. 1943

BY REPRESENTATIVE LEBLANC AND SENATOR CRAVINS

AN ACT

To enact Chapter 31 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 48:2091 through 2102, relative to the Lafayette Metropolitan Expressway Commission; to create and provide relative to the Lafayette Metropolitan Expressway Commission; to provide for certain definitions; to provide relative to the purpose, powers, jurisdiction, and duties of the commission; to establish a board of directors; to provide relative to directors; to provide relative to bonds, tolls, and other revenue; to provide relative to certain projects, acquisition of land, and utilities; to provide relative to public records; to provide for the cessation of tolls; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article III, Section 13 of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 31 of Title 48 of the Louisiana Revised Statutes of 1950, comprised of R.S. 48:2091 through 2102, is hereby enacted to read as follows:

CHAPTER 31. LAFAYETTE METROPOLITANEXPRESSWAY COMMISSION§2091. Short title

This Chapter shall be known and may be referred to as the "Lafayette Metropolitan Expressway Commission Act".

§2092. Purpose; legislative findings

A. The legislature hereby finds and declares that the development, construction, improvement, expansion, and maintenance of an efficient, safe, and well-maintained limited access highway system and related ingress and egress is essential to promote continued economic growth and to provide a high quality of life for the people of the Lafayette area.

B. Public revenue, including federal funds, has not kept pace with the area's growing transportation system needs. The legislature hereby finds and declares that it is a matter of public necessity to create the Lafayette Metropolitan Expressway Commission, to pursue alternative and innovative funding sources, including but not limited to tolls, to supplement public revenue sources, and to improve the Lafayette area's transportation system.

§2093. Definitions

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

(1) "Act" means the Lafayette Metropolitan Expressway Commission Act.

(2) "Board" means the board of directors of the commission.

(3) "Bonds" means any bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures,

warrants, commercial paper, or other obligations or any other evidence of indebtedness or evidence of borrowed money issued or entered into by the commission to finance projects.

(4) "Commission" means the Lafayette Metropolitan Expressway Commission created by this Chapter.

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

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

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

(8) "Project" means any capital project undertaken pursuant to this Chapter including the acquisition of real property, construction, reconstruction, improvement, extension, installation, development, landscaping, or operation of a tollway.

(9) "Project costs" means all costs associated with and necessary to plan, design, acquire property rights, and to construct a project, construction costs, and such other expenses as may be necessary or incidental to the construction, financing, and operation of the project.

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

(11) "Real property" means lands, waters, rights in lands or waters, structures, franchises, and interests in land, including lands

under water, riparian rights, property rights in air space or subsurface, and any and all other things and rights usually included within said term, including any and all interests in such property less than full title.

(12) "Revenue" means:

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

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

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

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

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

(16) "Tollway" means any limited access highway, bridge, or other transportation facility constructed or operated by the commission.

§2094. Lafayette Metropolitan Expressway Commission; creation; board of directors; meetings; quorum

A. The Lafayette Metropolitan Expressway Commission, hereafter referred to as the "commission", is hereby created 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.

B. The domicile of the commission shall be Lafayette Parish.

C. The board shall be composed of eleven directors who shall be the governing body of the commission with full power to promulgate

rules and regulations for the maintenance and operation of said authority as follows:

(1) Two members appointed by the Lafayette Economic Development Authority.

(2) Two members appointed by the Greater Lafayette Chamber of Commerce.

(3) Two members appointed by the University of Louisiana-Lafayette.

(4) One member appointed by the city/parish president of the Lafayette consolidated government.

(5) Two members appointed by the secretary of the Louisiana Department of Transportation and Development, one of whom shall be the District-03 engineer.

(6) One member appointed by the chief executive officer of the incorporated areas of the parish other than the city of Lafayette.

(7) One member appointed by the governing authority of the Lafayette consolidated government.

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

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

F. Directors of the commission shall not receive any salary for the performance of their duties as directors. Appointed directors may

be reimbursed for mileage expenses incurred for attendance at meetings of the commission. The mileage allowance shall be fixed by the commission 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.

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

H. The boundary and jurisdiction of the commission shall be coextensive with the boundaries of Lafayette Parish, Louisiana.

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

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

§2095. Right of public agencies to material

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

§2096. Feasibility; advice

A. The commission may construct projects under the terms and conditions set forth in this Chapter. The commission shall conduct an economic feasibility study prior to initiation of any project to substantiate project need and feasibility.

B. The Lafayette Consolidated Government's Metropolitan Planning Organization, and all subcommittees thereof, shall serve in an advisory capacity to the commission relative to any project or projects contemplated by or to be undertaken by the commission.

§2097. Jurisdiction; powers of commission

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

(1) The commission may adopt rules and regulations necessary to carry out the purposes of the commission, for the governance of its affairs, and for the conduct of its business.

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

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

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

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

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

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

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

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

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

(11) To establish control of access, designate the location, and establish, limit, and control points of ingress and egress for each project

as may be necessary or desirable in the judgment of the commission to ensure its proper operation and maintenance, and to prohibit entrance to such project from any point or points not so designated, subject to the prior written concurrence of the department when the state highway system is affected.

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

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

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

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

(16) To open accounts at financial institutions necessary for the conduct of its business and to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in

such investments as may be provided in any financing document relating to the use of such funds, or, if not so provided, as the commission may determine, subject to compliance with state laws relative to investments by political subdivisions.

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

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

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

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

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

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

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

§2098. Acquisition of lands and property

A. For the purposes of this Chapter, the commission may acquire private or public property and property rights by donation, purchase, exchange, or eminent domain proceedings, as the

commission may deem necessary for any commission purpose in the transportation corridor designated by the commission.

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

C. The commission may sell, lease, or otherwise dispose of all or any portion of a project, provided that the sale, lease, or other disposition of a state-designated project shall require department approval. Notwithstanding any law to the contrary, any surplus property may be sold in accordance with procedures adopted by the commission that maximize the price received for such property provided that, notwithstanding any other provision of law to the contrary, whenever any surplus property is acquired by the commission by eminent domain proceedings, the commission first shall offer to sell whatever rights it acquired back to the original owner or his successors in title, at the fair market value or at the original price paid, whichever is less.

D. When the commission acquires property for a project, it is not subject to any liability imposed by preexisting conditions. This Subsection does not, however, affect the rights or liabilities of any past or future owners of the acquired property, nor does it affect the liability of any governmental entity for the results of its actions which create or

exacerbate a pollution source. The commission and the Louisiana Department of Environmental Quality may enter into agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the commission.

§2099. Public utilities

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

(2) Whenever the commission shall determine that it is necessary to relocate, remove, or carry along or across a commission project by grade separation, any public utility facilities presently located in, on, along, over, or under a commission project, the owner or operator of such facilities shall relocate or remove the same in accordance with the order of the commission; however, the cost and expense of such relocation, removal, or grade separation, including the cost of installing such facilities in a new location or locations, including the cost of any land, or any rights or interest in lands, and any other rights acquired to accomplish such relocation or removal, shall be paid as project costs by the commission.

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

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

§2100. Contracts; construction; project development; law enforcement

A. Contracts of the commission for the construction, improvement, or maintenance of any commission project shall be made and awarded pursuant to applicable provisions of state law.

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

§2101. Bonds

A. Without reference to any provision of the Constitution of Louisiana and the laws of Louisiana, and as a grant of power in addition to any other general or special law, the commission created pursuant to this Chapter may issue bonds for any commission purpose and pledge revenues for the payment of the principal and interest of such bonds. The commission is further authorized, in its discretion, to pledge all or any part of any gift, grant, donation, or other sum of money, aid, or assistance from the United States, the state, or any political subdivision thereof, unless otherwise restricted by the terms thereof, all or any part of the proceeds of bonds, credit agreements, instruments, or any other money of the commission, from whatever source derived, for the further securing of the payment of the principal and interest of the bonds. Any such bonds shall be payable solely from revenues and bond proceeds, pending their disbursement, and investment income thereon.

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

C. Bonds shall be authorized by a resolution of the commission and shall be of such series, bear such date or dates, mature at such time or times, 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 commission, and be entitled to such priority on the revenues as such resolution or resolutions may provide.

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

E. The issuance of bonds shall not be subject to any limitations, requirements, or conditions contained in any other law, and bonds may

be issued without obtaining the consent of the state or any political subdivision, or of any agency, commission, or instrumentality thereof, except that the issuance of such bonds shall be subject to the approval of the State Bond Commission. The bonds shall be issued in compliance with the provisions of this Chapter.

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

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

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

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

J. Bonds of the commission, their transfer, and the income therefrom shall at all times be exempt from all taxation by the state or any political subdivision thereof and may or may not be exempt for federal income tax purposes. The bonds issued pursuant to this Chapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds shall be eligible to secure the deposit of any and all public funds of the state and any and all public funds of municipalities, parishes, school districts, or other political corporations or subdivisions of the state. Such bonds shall be lawful and sufficient security for said deposits to the extent of their value. When any bonds shall have been

issued hereunder, neither the legislature, the commission, nor any other commission may discontinue or decrease the revenues pledged to the payment of the bonds authorized hereunder or permit to be discontinued or decreased said revenues in anticipation of the collection of which such bonds have been issued, or in any way make any change in the allocation and dedication of the revenues which would diminish the amount of the revenues to be received by the commission, until all of such bonds shall have been retired as to principal and interest, and there is hereby vested in the holders from time to time of such bonds a contract right in the provisions of this Section.

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

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

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

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

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

§2102. Conveyance of project; maintenance

When the bonds issued for any project and the interest thereon 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, said project and any property acquired for the project may be transferred by the commission in full ownership to the state of Louisiana. The department will assume jurisdiction and control of the project as a part of the state highway system, provided that the legislature authorizes an increase in mileage of the state highway system equal to the length of the commission project to be transferred. Any commission project transferred to and accepted by the department will be operated and maintained by the department as an integral part of the state highway system, and the department, in the discretion of its secretary, may continue to collect any toll or fee for the purpose of maintenance of the project.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills

to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____