

First Extraordinary Session, 1998

HOUSE BILL NO. 152

BY REPRESENTATIVE WALSWORTH

PORTS/OUACHITA: Creates and provides with respect to the Greater Ouachita Port Commission

1 AN ACT

2 To enact Chapter 9 of Title 34 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 34:1401 through 1406, relative to port
4 commissions; to create and provide with respect to the Greater
5 Ouachita Port Commission; to provide for the membership, officers,
6 rights, and powers of the commission, including the power to incur
7 debt, issue bonds, levy special taxes, and expropriate property; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 9 of Title 34 of the Louisiana Revised Statutes of
11 1950, comprised of R.S. 34:1401 through 1406, is hereby enacted to read as
12 follows:

13 CHAPTER 9. GREATER OUACHITA PORT COMMISSION

14 §1401. Creation of commission; membership; qualifications; vacancy

15 A. The Greater Ouachita Port Commission, the "commission",
16 is hereby created. The commission shall be composed of seven
17 members, who shall serve without compensation. The members must

1 be citizens of the United States and qualified electors of the parish of
2 Ouachita and shall be appointed by the governor for overlapping terms
3 of six years, as follows:

4 (1) Two commissioners shall be appointed at large.

5 (2) Two commissioners shall be residents of Ward 3, 4, or 10.

6 (3) Two commissioners shall be residents of Ward 5, 6, 7, 8, or
7 9.

8 (4) One commissioner shall be a resident of Ward 1 or 2.

9 B. The commissioner initially appointed from Ward 1 or 2 and
10 one of the commissioners initially appointed from Ward 5, 6, 7, 8, or
11 9 shall serve terms of two years; one of the commissioners initially
12 appointed at large and one of the commissioners initially appointed
13 from Ward 3, 4, or 10 shall serve terms of four years; and the other
14 three commissioners initially appointed shall serve terms of six years,
15 all as designated by the governor. The successors shall serve terms of
16 six years. Each commissioner shall take and cause to be recorded the
17 oath of office, as required by Article X, Section 30 of the Constitution
18 of Louisiana and R.S. 42:161 et seq.

19 C. No commissioner shall hold office in a political party or
20 during his term as commissioner hold any elective or appointive office
21 or employment for compensation in the government of the United
22 States or of the state of Louisiana or a political subdivision thereof.

23 D. A vacancy on the commission for any reason shall be filled
24 for the remainder of the term by appointment by the governor of a
25 person meeting the same residence criteria, as provided by Subsection
26 A of this Section.

1 §1402. Officers; meetings; quorum

2 A. The commission shall elect from among its members a
3 president, a vice president, a secretary, and a treasurer and prescribe
4 their duties. At the option of the commission, the offices of the
5 secretary and the treasurer may be held by one person.

6 B. The commission shall meet in regular session once each
7 month and shall also meet in special session at the call of the president
8 or upon the written request of three of the commissioners. Four
9 members of the commission shall constitute a quorum and all actions
10 or resolutions must be approved by the affirmative vote of at least four
11 commissioners. The commission shall prescribe rules to govern its
12 meetings and shall fix the place at which its meetings will be held.

13 §1403. Rights and powers of commission

14 A. The commission shall exercise the powers herein conferred
15 upon it within the port area, consisting of the parish of Ouachita.

16 B. The commission may authorize a reasonable travel allowance
17 for its members in the performance of their official duties. It may
18 employ such officers, agents, and employees as it may find necessary
19 in the performance of its duties and may prescribe their duties, powers,
20 and compensation. The commission may contract for legal, financial,
21 engineering, and other professional services necessary or expedient in
22 the conduct of its affairs and may utilize the services of the other
23 executive departments of the state, upon terms and conditions mutually
24 agreeable.

25 C. The commission shall regulate the commerce and traffic
26 within the port area in such a manner as in its judgment may be for the

1 best interests of the state. It shall have charge of and administer public
2 wharves, docks, sheds, and landings and may construct or acquire and
3 equip wharves, landings, and other structures useful for the commerce
4 of the port area and provide mechanical facilities therefor; erect sheds
5 or other structures on the wharves and landings; maintain proper depths
6 of water at the wharves and landings; provide light, water, police
7 protection, and other services for its facilities; construct or acquire,
8 maintain, and operate basins, locks, canals, warehouses, and elevators;
9 charge for the use of all facilities it administers and for all services it
10 renders such fees, rates, tariffs, or other charges as it may establish;
11 establish harbor lines within the port area by agreement with the Corps
12 of Engineers; and construct, own, operate, and maintain terminal rail
13 facilities and other common carrier rail facilities for the purpose of
14 rendering rail transportation to and from the facilities to be erected,
15 owned, and operated by the commission in both intrastate and interstate
16 commerce. Title to all property and improvements thereon operated by
17 the commission shall vest in the commission. Nothing herein shall
18 operate as a restriction upon the lawful use and development of private
19 property within the port area for port purposes, including the
20 construction and operation of grain elevators and docks appurtenant
21 thereto.

22 D. The commission may charge a reasonable fee to each vessel
23 arriving in the port area in ballast or carrying cargo of any kind. It may
24 also charge for each copy of any certificate issued by it or by any of its
25 officers or employees for inspecting hatches, surveying cargo, or
26 making other surveys or inspections of vessels in the port area, but it

1 shall furnish without charge to the master of each such vessel one copy
2 of all surveys upon his vessel or cargo.

3 E. The commission may enter into contracts, leases, and other
4 agreements with railroads, trucking companies, barge lines, and any
5 other companies interested in the transportation, storage, and shipping
6 of goods and other products, whether by rail, truck line, barge line,
7 oceangoing vessels, or otherwise, for the use of all or any part or
8 portion of the facilities administered by the commission for a period of
9 time not exceeding forty years. However, no exclusive franchise shall
10 be granted to any carrier.

11 §1404. Authority for issuance of bonds; special taxes; pledge of
12 revenues; mortgage; donation

13 A. When authorized by a majority of the electors of the port
14 area who vote thereon in an election held for that purpose, the
15 commission may levy on all property subject to taxation situated
16 within the port area an ad valorem tax at an annual millage not to
17 exceed two and one-half mills on the dollar. The commission upon its
18 own initiative may call a special election and submit to the qualified
19 electors of the port area the question of authorizing the levy of such a
20 tax. These special taxes shall be levied, assessed, and collected on the
21 property within the port area under the same methods, terms, and
22 conditions and at the same time as parish taxes are levied, assessed, and
23 collected; these taxes shall be secured by the same liens upon the
24 property subject to taxation within the port area as taxes for parish
25 purposes; and the property subject to any taxes within the port area

1 shall be sold for failure to pay the same in the manner as property is
2 sold for delinquent parish and other taxes.

3 B. The provisions of the constitution and all laws regulating the
4 collection of taxes, the creating of tax liens and mortgages, tax
5 penalties, and tax sales also shall apply to the collection of all taxes
6 authorized by this Section. The sheriff and ex officio tax collector for
7 the parish of Ouachita shall make a monthly settlement with the
8 treasurer of the commission and receive from him a receipt for the
9 amount of the taxes paid over, shall receive from the treasurer a quietus
10 for a full settlement of taxes due and exigible in any given year and
11 account for the delinquents or deductions, and shall retain from all
12 taxes collected by him for the port area the same commission allowed
13 thereon to him by law on special taxes and deposit the amount thereof
14 to the credit of the sheriff's salary fund. Upon the failure of the tax
15 collector to comply with the provisions of this Section, the commission
16 shall proceed against him and the sureties on his official bond for the
17 collection of whatever money may be owing to the commission for
18 such special taxes.

19 C. When authorized by a majority of the electors of the port
20 area who vote thereon in an election held for that purpose and with the
21 approval of the State Bond Commission, the commission may incur
22 debts for its lawful purposes, may issue in its name negotiable bonds
23 or notes therefor, and may pledge for the payment of the principal and
24 interest of such negotiable bonds or notes the revenues derived from the
25 operation of properties and facilities maintained and operated by it, or
26 received by the commission from any taxes authorized under this

1 Section or from other sources; however, the amount of such bonds or
2 notes outstanding at any one time shall not exceed fifteen million
3 dollars. Such bonds, when authorized to be issued, shall constitute,
4 first, a general obligation of the commission, and secondly, the full
5 faith and credit of the parish of Ouachita is hereby pledged. In addition
6 to the pledge of revenues to secure the bonds and notes, the
7 commission may further secure their payment by conventional
8 mortgage upon any or all of the properties constructed or acquired or
9 to be constructed and acquired by it. The commission may receive by
10 gift, grant, donation, or otherwise any sum of money, aid, or assistance
11 from the United States, the state of Louisiana, or any political
12 subdivision thereof and, unless otherwise provided by the terms of such
13 gift, grant, or donation, it may to pledge all or any part of such monies
14 for the further securing of the payment of the principal and interest of
15 its bonds or notes.

16 §1405. Prescriptive period; sale of bonds

17 A. For sixty days after promulgation of the result of an election
18 held to incur or assume debt, issue bonds, or levy a tax, any person in
19 interest may contest the legality of the election, the bond issue provided
20 for, or the tax authorized, for any cause. After that time no one shall
21 have any cause or right of action to contest the regularity, formality, or
22 legality of the election, tax provisions, or bond authorization, for any
23 cause whatsoever. If the validity of any election, tax, debt assumption,
24 or bond issue authorized or provided for is not raised within the sixty
25 days, the authority to incur or assume debt, levy the tax, or issue the
26 bonds, the legality thereof, and the taxes and other revenues necessary

1 to pay the same shall be conclusively presumed to be valid, and no
2 court shall have authority to inquire into such matters.

3 B. A resolution authorizing the issuance of bonds or other debt
4 obligation by the commission shall be published at least once in the
5 official journal of the parish. For thirty days after the date of
6 publication, any person in interest may contest the legality of the
7 resolution and of any provision therein made for the security and
8 payment of the bonds. After that time, no one shall have any cause of
9 action to test the regularity, formality, legality, or effectiveness of the
10 resolution or any provisions thereof for any cause whatever.
11 Thereafter, it shall be conclusively presumed that every legal
12 requirement for the issuance of the bonds or other debt obligation,
13 including all things pertaining to the election, if required, at which the
14 bonds or other debt obligation were authorized, has been complied
15 with. No court shall have authority to inquire into any of these matters
16 after the thirty days.

17 C. Any bonds issued in accordance with the provisions of R.S.
18 34:1404 shall be sold to the highest bidder at a public sale, for not less
19 than par and interest, after advertisement at least once a week for not
20 less than thirty days by the commission in Monroe, Chicago, New
21 York, and such other places as the commission may determine,
22 reserving to the commission the right to reject any and all bids and the
23 right to readvertise for new bids.

24 §1406. Expropriation

25 The commission may acquire by expropriation in accordance
26 with R.S. 19:141 through 160 any wharves, landings, or other

1 properties necessary for the benefit and advantage of the commerce of
2 the commission.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Walsworth

HB No. 152

Proposed law re-creates the Greater Ouachita Port Commission (the statutes previously governing the commission were repealed by Act No. 1116 of 1997).

Proposed law provides for the membership, powers, duties, and functions of the commission as follows:

- (1) Seven members, who are electors of Ouachita Parish and who serve without compensation but who may be paid a reasonable travel allowance, appointed for overlapping six-year terms by the governor, as follows: two members at large; two members from Ward 3, 4, or 10; two members from Ward 5, 6, 7, 8, or 9; and one member from Ward 1 or 2.
- (2) A commissioner cannot hold an elective or appointive office or employment for compensation in the government of the U.S., the state of Louisiana, or a political subdivision thereof.
- (3) The commission elects a president, vice president, secretary, and treasurer and prescribes their duties; must meet regularly once a month and on call of the president or on request of three members; four members constitute a quorum and four members must vote affirmatively to approve any action or resolution.
- (4) The commission may employ and prescribe the duties and compensation of necessary officers, agents, and employees; may contract for legal, financial, engineering, and other professional services; and may utilize services of executive departments of the state, upon mutually agreeable terms and conditions.
- (5) The commission has general regulatory authority over the commerce and traffic within the port area (Ouachita Parish), including the authority to administer public wharves, docks, sheds, and landings; to construct or acquire and equip facilities; to maintain proper water depths; to provide light, water, police protection, and other services; to construct or acquire, maintain, and operate basins, locks, canals, warehouses, and elevators; to charge for the use of its facilities and services; to establish harbor lines by agreement with the Corps of Engineers; and to construct, operate, and maintain rail facilities and other common carrier facilities to provide rail transportation to and

from its facilities. This authority does not operate as a restriction on lawful use and development of private property within the port area for port purposes.

- (6) The commission may charge a reasonable fee to vessels arriving in the port area in ballast or carrying cargo of any kind and may charge for copies of certificates issued for inspections and surveys of vessels and cargoes.
- (7) The commission may enter into contracts and leases with railroads, trucking companies, barge lines, and other companies interested in transportation, storage, and shipping of goods and products for the use of its facilities for a period of not more than 40 years, but it may not grant an exclusive franchise to any carrier.
- (8) When authorized by the voters in Ouachita Parish, the commission may levy an ad valorem tax on all property subject to taxation, not to exceed 2-1/2 mills, in accordance with and subject to laws regarding the levy, collection, and enforcement of such taxes.
- (9) When authorized by the voters of Ouachita Parish and with the approval of the State Bond Commission, the commission may incur debt, issue bonds or notes, and pledge for their payment the revenues it receives from taxes, operation of its facilities, or other sources, including gifts, grants, donations, and any funds from the United States, the state, or any political subdivision thereof; however, the amount of the bonds or notes outstanding at any one time may not exceed \$15,000,000. Provides for incontestability periods for tax and bond elections and for resolutions authorizing the issuance of the bonds. Provides for advertisement and for the sale of the bonds to the highest bidder, reserving to the commission the right to reject bids and to readvertise.
- (10) The commission may expropriate wharves, landings, or other properties necessary for the benefit and advantage of the commerce of the commission, in accordance with laws for expropriation of property by port commissions, which authorize expropriation by a declaration of taking (R.S. 19:141-160).

(Adds R.S. 34:1401-1406)