

New Orleans Transportation Authority Act

A Bill to Establish a Transportation Authority for the City of New Orleans

Section I: Short Title

- (a) This legislation may be referred to as the New Orleans Transportation Authority Act.
- (b) The title may be abbreviated to "NOTAA" (pronounced no-tahhh) by members of the Assembly or the general public.

Section II: Definitions

- (1) Except in those instances where the context clearly indicates otherwise, whenever used or referred to in this bill, the following terms shall have the following meanings:

- (a) "Authority" means the body politic and corporate, an agency of the state created by this bill.
- (b) "Members" means the governing body of the authority, and the term "member" means one of the individuals constituting such governing body.
- (c) "Bonds" means and includes the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in either temporary or definitive form, that the authority is authorized to issue pursuant to this bill.
- (d) "Department" means the Department of Transportation existing under Chapters 334-339 of the Dixie Statutes.
- (e) "Dixie State Improvement Commission" or "commission" means the state agency created, organized, and existing under and by virtue of the provisions of chapter 288 of the Dixie Statutes.
- (f) "County" means Orleans Parish.
- (g) "City" means the City of New Orleans.
- (h) "State Board of Administration" means the body corporate existing under the provisions of s. 4, Art. IV of the State Constitution or any successor thereto.

(i) "Agency of the state" means and includes the state and any department of the state, the authority, or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the state.

(j) "Federal agency" means and includes the United States, the President of the United States, and any department of the United States or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.

(k) "Transportation facilities" means and includes all mobile and fixed assets (real or personal property or rights therein) used in the transportation of persons or property by any means of conveyance whatsoever, and all appurtenances thereto, such as, but not limited to, highways; limited or controlled access lanes and facilities; docks, vessels, vehicles, fixed guideway facilities, and any means of conveyance of persons or property of all types; park-and-ride facilities; transit-related improvements adjacent to transit facilities or stations; bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations herein granted.

(2) Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section III: New Orleans Transportation Authority

(1) There is hereby created and established a body politic and corporate and an agency of the state to be known as the New Orleans Expressway Authority, redesignated as the New Orleans Transportation Authority, and hereinafter referred to as the "authority."

(2) The governing body of the authority shall consist of seven members. Three members shall be appointed by the Governor and confirmed by the **Senate Assembly**. Three members shall be appointed by the mayor of the City of New Orleans subject to confirmation by the council of the City of New Orleans. The seventh member shall be the district secretary of the Department of Transportation serving in the district that contains the City of New Orleans. Except for the seventh member, members shall be residents and qualified electors of Orleans Parish.

(3)

(a) The terms of appointed members shall be for 4 years deemed to have commenced on June 1 of the year in which they are appointed. Each member

shall hold office until a successor has been appointed and has qualified. A vacancy during a term shall be filled by the respective appointing authority only for the balance of the unexpired term. Any member appointed to the authority for two consecutive full terms shall not be eligible for appointment to the next succeeding term. One of the members so appointed shall be designated annually by the members as chair of the authority, one member shall be designated annually as the vice chair of the authority, one member shall be designated annually as the secretary of the authority, and one member shall be designated annually as the treasurer of the authority. The members of the authority shall not be entitled to compensation, but shall be reimbursed for travel expenses or other expenses actually incurred in their duties as provided by law. Four voting members of the authority shall constitute a quorum, and no resolution adopted by the authority shall become effective unless with the affirmative vote of at least four members. Members of the authority shall file as their mandatory financial disclosure a statement of financial interest with the Commission on Ethics as provided in s. 112.3145.

(b) The authority shall employ an executive director, and the executive director may hire such staff, permanent or temporary, as he or she may determine and may organize the staff of the authority into such departments and units as he or she may determine. The executive director may appoint department directors, deputy directors, division chiefs, and staff assistants to the executive director, as he or she may determine. In so appointing the executive director, the authority may fix the compensation of such appointee, who shall serve at the pleasure of the authority. All employees of the authority shall be exempt from the provisions of part II of chapter 110. The authority may employ such financial advisers and consultants, technical experts, engineers, and agents and employees, permanent or temporary, as it may require and may fix the compensation and qualifications of such persons, firms, or corporations. The authority may delegate to one or more of its agents or employees such of its powers as it shall deem necessary to carry out the purposes of this bill, subject always to the supervision and control of the governing body of the authority.

Section IV: Purposes and powers

(1)

(a) The authority created and established by the provisions of this bill is hereby granted and shall have the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the New Orleans Expressway System (hereinafter referred to as "system"), heretofore partially constructed or acquired by the Dixie State Improvement Commission in the New Orleans, Orleans Parish, metropolitan area, as more specifically described in the proceedings of the commission which authorized the issuance of \$28 million in bonds of the commission for such purpose, and as hereafter completed or improved or extended as authorized by this bill, and all appurtenant facilities, including all approaches, streets, roads, bicycle paths, bridges, and avenues of access for the New Orleans Expressway System, and to construct or acquire extensions, additions, and improvements to the system and to complete the construction and acquisition of the system.

(b) The authority may, in addition, acquire, hold, construct, improve, operate, maintain, and lease in the capacity of lessor a mass transit system employing motor cars or buses; street railway systems beneath the surface, on the surface, or above the surface; or any other means determined useful to the rapid transfer of large numbers of people among the locations of residence, commerce, industry, and education in Orleans Parish.

(c) The authority may further plan, coordinate, and recommend to appropriate officers and agencies of federal, state, and local governments methods and facilities for the parking of vehicles, the movement of pedestrians, and vehicular traffic (including bicycles), public and private, in Orleans Parish to accomplish a coordinated transportation system for the greater New Orleans area. The authority may construct and operate passenger terminals for the parking of automobiles and movement by public conveyance of persons and construct and operate all other facilities necessary to a complete and coordinated transportation system in the New Orleans area.

(d) It is the express intention of this bill that the authority, in completing the construction of the New Orleans Expressway System, is not limited to the description thereof contained in the proceedings of the commission which authorized the issuance of \$28 million in bonds to finance part of the cost thereof, but it is authorized to finance and construct any additional extensions, additions, or improvements to the system, or appurtenant facilities, including all

necessary approaches, roads, bicycle ways, bridges, and avenues of access, with such changes, modifications, or revisions of the project as are deemed desirable and proper. It is the intent of this bill, and to effect its purposes the Legislature determines, that bonds issued under this bill be deemed to be state capital improvement bonds to finance or refinance the cost of state capital projects pursuant to s. 11(d), Art. VII of the State Constitution. However, the provisions of s. 316.091(2), relating to bicycles, do not apply to this system.

(e) In addition to the other powers set forth in this bill, the authority has the right to plan, develop, finance, construct, own, lease, purchase, operate, maintain, relocate, equip, repair, and manage those public transportation projects, such as express bus services; bus rapid transit services; light rail, commuter rail, heavy rail, or other transit services; ferry services; transit stations; park-and-ride lots; transit-oriented development nodes; or feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities, that are intended to address critical transportation needs or concerns in the New Orleans, Orleans Parish, metropolitan area. These projects may also include all necessary approaches, roads, bridges, and avenues of access that are desirable and proper with the concurrence of the department, as applicable, if the project is to be part of the State Highway System.

(f) The authority, in addition to the other powers and duties provided, shall have the power and responsibility to formulate and implement a plan for a mass transit system that will serve Orleans Parish and the greater New Orleans area.

(2) The authority is hereby granted, and shall have and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but without being limited to, the right and power:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire, purchase, construct, hold, lease as lessee or lessor, and use any franchise or any property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it, including, without limitation, land,

buildings, and other facilities located within or comprising transit-oriented developments which enhance the use or utility of transportation facilities owned or constructed by the authority and administrative and other buildings for the use of the authority in carrying out its powers and obligations granted in this bill.

(d) To enter into and make leases for terms not exceeding 40 years, as either lessee or lessor, in order to carry out the right to lease as set forth in this bill.

(e) To fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services and facilities of the New Orleans Expressway System and any other transportation facilities of the authority, which rates, fees, rentals, and other charges shall always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this bill; this right and power may be assigned or delegated by the authority to the department.

(f) To borrow money and make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form (hereinafter in this bill sometimes called "bonds"), of the authority, for the purpose of funding or refunding, at or prior to maturity, any bonds theretofore issued by the authority, or by the Dixie State Improvement Commission to finance part of the cost of the New Orleans Expressway System, and purposes related thereto, and for the purpose of financing or refinancing all or part of the costs of completion, improvement, or extension of the New Orleans Expressway System, and appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access for the New Orleans Expressway System and for any other purpose authorized by this bill, such bonds to mature in not exceeding 40 years from the date of the issuance thereof; to secure the payment of such bonds or any part thereof by a pledge of any or all of its revenues, rates, fees, rentals, or other charges, including all or any portion of the Orleans Parish gasoline tax funds received by the authority; and in general to provide for the security of such bonds and the rights and remedies of the holders thereof.

In the event that the authority determines to fund or refund any bonds theretofore issued by the authority, or by the commission as aforesaid, prior to the maturity thereof, the proceeds of such funding or refunding bonds shall, pending the prior redemption of the bonds to be funded or refunded, be invested in direct obligations of the United States; and it is the express intention of this bill that such outstanding bonds may be funded or refunded by the issuance of bonds pursuant to this bill

notwithstanding that part of such outstanding bonds will not mature or become redeemable until 6 years after the date of issuance of bonds pursuant to this bill to fund or refund such outstanding bonds.

(g) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(h) Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases, or other transactions with, any federal agency, the state, any agency of the state, the Orleans Parish, the City of New Orleans, or any other public body of the state.

(i) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(j) To pledge, hypothecate, or otherwise encumber all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the Orleans Parish gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as security for all or any of the obligations of the authority.

(k) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it by this bill or any other law.

(l) To invest and to borrow money and make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, of the authority for the purpose of financing or refinancing all or a part of the cost of the acquisition or improvement of transportation facilities and for any other purposes authorized by this bill, such bonds to mature in not exceeding 40 years from the date of the issuance thereof; to secure the payment of such bonds or any part thereof by a pledge of any or all of its revenues, rates, fees, rentals, or other charges, including, without limitation, all or any portion of local option taxes or county gasoline tax funds received by the authority; and in general to provide for the security of such bonds and the rights and remedies of the holders thereof.

(m) To adopt rules to carry out the powers and obligations herein granted, which set forth a purpose, necessary definitions, forms, general conditions and procedures, and fines and penalties, including, without limitation, suspension or debarment, and charges for nonperformance, with respect to any aspect of the work or function of the authority for the permitting, planning, funding, design, acquisition, construction, equipping, operation, and maintenance of transportation facilities, transit and highway, within the state, provided or operated by the authority or others in cooperation with or at the direction of the authority, and for carrying out all other purposes of the authority set forth or authorized in this bill.

(n) To establish and fund reserve accounts with respect to its operations and functions, make withdrawals therefrom, and replenish such accounts, as the governing body may reasonably determine.

(o) To adopt and approve an annual budget, and to utilize purchasing schedules and master purchasing contracts of the state, any municipality, or any federal agency, to the extent permitted by law.

(p) To retain legal counsel and financial, engineering, real estate, accounting, design, planning, and other consultants from time to time as the authority may determine to assist in the carrying out of the powers and obligations granted in this bill.

(q) With the consent of the county within whose jurisdiction the following activities occur, to construct, own, operate, and maintain transportation facilities outside the jurisdictional boundaries of Orleans Parish, with all necessary and incidental powers to accomplish the foregoing.

(r) To form, alone or with one or more other agencies of the state or local governments, public benefit corporations to carry out the powers and obligations granted in this bill or the powers and obligations of such other agencies or local governments.

(s) To require or elect not to require bid bonds and protest bonds, to prequalify bidders or proposers in various categories of work or services, and to suspend or debar consultants and contractors in accordance with the rules of the authority.

(t) To create and operate an employees' benefit fund for employees of the authority or public benefit corporations controlled by it. The proceeds of vending machines located on the premises of the authority or such corporations shall be paid into the fund and used for such benefits and purposes as the authority may determine.

(3) The authority shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof; nor shall any of the obligations of the authority be deemed to be obligations of the state or of any political subdivision or agency thereof; nor shall the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of, or interest on, such obligations. However, this provision is not applicable to the type or manner of financing authorized by s. 9(c)(5), Art. XII of the State Constitution, as amended, and laws enacted pursuant thereto.

(4) By a resolution of its governing body, the authority may expand its service area and enter into a partnership with any county that is contiguous to the then-current service area of the authority. The governing body shall determine the conditions and terms of the partnership, except as provided in this section. However, the authority may not expand its service area without the consent of the governing body representing the proposed expansion area.

(5) Except as otherwise expressly provided in this bill, none of the powers and obligations herein granted to the authority shall be subject to the supervision or require the approval or consent of any municipality or county, except as may be agreed upon by the authority in an interlocal agreement with a municipality or county.

(6) No oral modification of a contract, whether for construction of highway facilities or other transportation facilities, shall be binding upon the authority or form the basis for a claim against the authority. Only the chair of the governing body or executive director of the authority, or the designee of either, may bind the authority. The authority may provide for liquidated damages for delays by contractors in construction of transportation facilities for the authority, or the authority may provide for other contractually agreed-upon damages measures for delays.

(7) The authority shall be deemed to be an "authority" for purposes of s. 337.403, shall have all of the powers granted to authorities under s. 337.403, and shall have the powers granted to the Department of Transportation under s. 337.274 with respect to its powers and obligations granted in this bill.

(8) The authority may conduct public meetings and workshops by means of communications media technology, as provided in s. 120.54(5). However, a resolution, rule, or formal action is not binding unless a quorum is physically present at the noticed meeting location, and only members physically present may vote on any item.

(9) Provision of funds and services by city to authority.—

(a) The authority shall prepare and submit annually its requests for such funds as it may require from the city for the ensuing year to the council of the city on or before June 1, setting forth its estimation for related gross revenues and estimated requirements for operations, maintenance expenses, and debt service. A copy of such requests shall be furnished to the Department of Transportation. The council and the mayor of the City of New Orleans may appropriate such funds as they deem appropriate for the use of the authority, and the use of such funds shall be subject to audit by the Council Auditor of the City of New Orleans.

(10) Except as the council may provide, and except as otherwise required by any trust indenture outstanding on September 1, 1971, the authority may use, on a cost-accounted basis, the central services of the city and shall pay therefor.

(11) Public hearings for transportation facilities

Transportation facilities may not be designated or relocated by the authority, nor may substantive changes be made thereto, until after a public hearing is conducted by the authority. Any interested party shall have the opportunity to be heard either in person or by counsel and to introduce testimony in such person's behalf at the hearing. Reasonable notice of each such public hearing shall be published in a newspaper of general circulation in each county directly affected by the proposed transportation facility not less than 14 days prior to the hearing. In addition, the authority shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

Section V: Bonds of the authority; bonds not debt or pledges of credit of state

(1)

(a) Bonds may be issued on behalf of the authority pursuant to the State Bond Act or, alternatively, the authority may issue bonds pursuant to paragraph (b).

(b)

(i). The bonds of the authority issued pursuant to the provisions of this bill, whether an original issuance or on refunding, shall be authorized by

resolution of the members thereof and may be issued in one or more series, may be either term or serial bonds, and shall bear such date or dates, be payable on demand or mature at such time or times, not exceeding 40 years from their respective dates, bear interest, fixed or variable, at such rate or rates, not exceeding the maximum lawful interest rate, be in such denominations, be in such form, either coupon or fully registered, carry such registration, exchangeability, and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, with or without premium, and other terms, have such rank, and be entitled to such remedies and priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority including all or any portion of local option sales tax or county gasoline tax funds received by the authority, as the authority may determine. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, provided that such bonds shall bear at least one signature that is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced, or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(ii) Such bonds shall be sold at public or private sale at such price or prices as the authority determines to be in its best interest, except that the interest costs to the authority on such bonds may not exceed the maximum lawful interest rate. The authority shall provide a specific finding by resolution as to the reason requiring any negotiated sale. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(iii) The authority may issue bonds pursuant to this paragraph to refund any bonds previously issued regardless of whether the bonds being refunded were issued by the authority pursuant to this bill or on behalf of the authority pursuant to the State Bond Act.

(2) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions, and valid and legally binding covenants of the authority, which shall be part of the contract with the holders of such bonds, as to:

(a) The pledging of all or any part of the revenues, rates, fees, rentals, including the sales surtax adopted pursuant to s. 212.055(1) (including all or any portion of the county gasoline tax funds received by the authority), or other charges or receipts of any nature of the authority, whether or not derived by the authority from the New Orleans Expressway System or its other transportation facilities;

(b) The completion, improvement, operation, extension, maintenance, repair, or lease of said system or transportation facilities, and the duties of the authority and others, including the department, with reference thereto;

(c) Limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant, may be applied;

(d) The fixing, charging, establishing, and collecting of rates, fees, rentals, or other charges for use of the services and facilities of the New Orleans Expressway System or any part thereof or its other transportation facilities;

(e) The setting aside of reserves or sinking funds or repair and replacement funds and the regulation and disposition thereof;

(f) Limitations on the issuance of additional bonds;

(g) The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds or under which the same may be issued; and

(h) Any other or additional provisions, covenants, and agreements with the holders of the bonds which the authority may deem desirable and proper.

(3) The State Board of Administration may, upon request by the authority, act as fiscal agent for the authority in the issuance of any bonds that may be issued pursuant to this bill, and the State Board of Administration may, upon request by the authority, take over the management, control, administration, custody, and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this bill. The authority may enter into deeds of trust, indentures, or other agreements with a corporate trustee or trustees, which shall act as fiscal agent for the authority and may be any bank or trust company within or without the state, as security for such bonds and may, under such agreements, assign and pledge all or any of the revenues,

rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of local option taxes or county gasoline tax funds received by the authority, thereunder. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or as the authority may authorize, including, without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of all or any part of transportation facilities authorized in this bill to be constructed, acquired, developed, or operated by the authority and the duties of the authority and others with reference thereto;

(b) The application of funds and the safeguarding of funds on hand or on deposit;

(c) The rights and remedies of the trustee and the holders of the bonds; and

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

(4) Any of the bonds issued pursuant to this bill are, and are hereby declared to be, negotiable instruments and shall have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

(5) Notwithstanding any of the provisions of this bill, each project, building, or facility that has been financed by the issuance of bonds or other evidences of indebtedness under this bill and any refinancing thereof is hereby approved as provided for in s. 11(f), Art. VII of the State Constitution.

(6) Revenue bonds issued under the provisions of this bill are not debts of the state or pledges of the faith and credit of the state. Such bonds are payable exclusively from revenues pledged for their payment. Each such bond shall contain a statement on its face that the state is not obligated to pay the same or the interest thereon, except from the revenues pledged for their payment, and that the faith and credit of the state is not pledged to the payment of the principle or interest of such bond. The issuance of revenue bonds under the provisions of this bill does not directly, indirectly, or contingently obligate the state to levy or to pledge any form of taxation whatsoever or to make any appropriation for their payment.

(a) Bond financing authority.—Pursuant to s. 11(f), Art. VII of the State Constitution, the Legislature hereby approves for bond financing by the authority any extensions, additions, and improvements to the New Orleans Expressway

System and any other facilities appurtenant, necessary, or incidental to the system or any transportation facilities herein authorized to be constructed, acquired, or operated by the authority. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such costs may be financed in whole or in part by revenue bonds issued pursuant to s. 349.05(1)(a) or (b), whether currently issued or issued in the future, or by a combination of such bonds.

Section VI: Transfer of existing New Orleans Expressway System to authority

(1) In order to effectuate the purposes of this bill, and subject to the rights of any holders of bonds heretofore issued by said Dixie State Improvement Commission to finance any part of the cost of said New Orleans Expressway System heretofore constructed by Dixie State Improvement Commission in the New Orleans, Orleans Parish, metropolitan area, and to the rights of the State Road Department under any lease-purchase agreement heretofore entered into therefor between Dixie State Improvement Commission and said State Road Department, all the right, title and interest in and to said New Orleans Expressway System, and all powers, jurisdiction and control over or relating thereto, heretofore vested in Dixie State Improvement Commission, upon the request of the authority, shall be transferred, set over, assigned and conveyed to said authority, and said Dixie State Improvement Commission shall thereupon transmit to the proper officers of the authority all deeds, conveyances, documents, books and records relating to said system, and shall execute all necessary documents and papers to carry out and consummate the conveyance and transfer of said system to said authority as provided for in this bill; provided, however, that in the event no such request is made by said authority on or before April 1, 1956, then, and in such event, this bill shall be of no force or effect and, thereafter, all powers, jurisdiction and control over or relating to said New Orleans Expressway System existing in the Dixie State Improvement Commission, the State Road Department and the State Board of Administration prior to the enactment of this bill shall continue in full force and effect to the same extent as if this bill had never been enacted.

(2) This section, without reference to any other laws, shall be deemed to be and shall constitute complete authority for the transfer, assignment and conveyance herein authorized, any provisions of other laws to the contrary notwithstanding, and no proceedings or other action shall be required except as herein prescribed.

Section VII: Department may be appointed agent of authority for construction.

The department may be appointed by said authority as its agent for the purpose of constructing improvements and extensions to the New Orleans Expressway System and for the completion thereof. In such event, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts and instruments relating thereto and shall request the department to do such construction work including the planning, surveying and actual construction of the completion, extensions, and improvements to the New Orleans Expressway System and shall transfer to the credit of an account of the department in the treasury of the state the necessary funds therefor and the department shall thereupon be authorized, empowered and directed to proceed with such construction and to use the said funds for such purpose in the same manner that it is now authorized to use the funds otherwise provided by law for its use in construction of roads and bridges.

Section VIII Acquisition of lands and property

(1) For the purposes of this bill, the New Orleans Transportation Authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the authority may deem necessary, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of transportation facilities, and replacement rights-of-way for relocated rail and utility facilities, and areas necessary for existing, proposed, or anticipated transportation facilities or in a transportation corridor designated by the authority. The authority shall also have the power to condemn any material and property necessary for such purposes. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the state or any political subdivision thereof may be acquired without the state's or affected political subdivision's consent. The right of eminent domain conferred in this section shall be exercised by the authority in the manner provided by law. Notwithstanding that the authority is an agency of the state, the authority shall not exercise its powers of condemnation granted in this section with respect to any property or property rights of any county or municipality, including, without limitation, the City of New Orleans.

(2) The authority may acquire such rights, title, interest, or easements in such lands as it may deem necessary for any of the purposes of this bill.

(3) In connection with the acquisition of property or property rights as herein provided, the authority may in its discretion acquire an entire lot, block, or tract of land,

if by so doing the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

(4) When the authority acquires property for a transportation facility or in a transportation corridor, it is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not 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 that create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement for the costs of the investigative and remedial acts necessary for property acquired by the authority.

Section IX: Cooperation with other units, boards, agencies, and individuals

(a) Express authority and power is hereby given and granted any county, municipality, drainage district, road and bridge district, school district or any other political subdivision, board, commission or individual in, or of, the state to make and enter into with the authority, contracts, leases, conveyances, or other agreements within the provisions and purposes of this bill. The authority is hereby expressly authorized to make and enter into contracts, leases, conveyances and other agreements with any political subdivision, agency or instrumentality of the state and any and all federal agencies, corporations and individuals, for the purpose of carrying out the provisions of this bill.

Section X: Covenant of the state

(a) The state does hereby pledge to and agree with any person, firm, corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this bill that the state will not limit or alter the rights hereby vested in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to and agree with the United States and any federal agency that, in the event that any federal agency shall construct or contribute any funds for the completion, extension, or improvement of the New Orleans Expressway System or other transportation facilities of the authority, or any part or portion thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner that would be inconsistent with the continued maintenance and operation of the New Orleans Expressway System or other transportation facilities of the authority or the completion, extension, or improvement thereof, or that would be inconsistent with the

due performance of any agreements between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of this bill and the purposes of the United States in the completion, extension, or improvement of the New Orleans Expressway System or other transportation facilities of the authority, or any part or portion thereof.

Section XI: Exemption from taxation

The effectuation of the authorized purposes of the authority created under this bill is, shall and will be, in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and since such authority will be performing essential governmental functions in effectuating such purposes, such authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes or upon any rates, fees, rentals, receipts, income, or charges at any time received by it, and the bonds and other obligations issued under this bill, their transfer and the income therefrom (including any profits made on the sale thereof), shall at all times be free from taxation of any kind by the state or by any political subdivision or taxing agency or instrumentality thereof. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations. When property of the authority is leased, it shall be exempt from ad valorem taxes only if the use by the lessee qualifies the property for exemption under s. 196.199.

Section XII: Eligibility for investments and security

Any bonds or other obligations issued pursuant to this bill shall be and constitute legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries, and for all state, municipal and other public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal or other public funds, notwithstanding the provisions of any other law or laws to the contrary.

Section XIII: Remedies; pledges enforceable by bondholders

Any holder of bonds issued under this bill, except to the extent such rights may be restricted by the resolution, deed of trust, indenture, or other proceeding relating to the issuance of such bonds, may by civil action, mandamus, or other appropriate action, suit, or proceeding in law or in equity, in any court of competent jurisdiction, protect and enforce any and all rights of such bondholder granted under the proceedings authorizing the issuance of such bonds and enforce any pledge made for payment of

the principal and interest on bonds, or any covenant or agreement relative thereto, against the authority.

Section XIV: Transfer of refunding powers to authority

The power vested in the State Board of Administration by s. 344.26, to issue its refunding bonds for the purpose of refunding, at or prior to maturity, outstanding obligations of Dixie State Improvement Commission, is, but only insofar as such power to refund is applicable to any bonds of Dixie State Improvement Commission heretofore issued to finance part of the cost of New Orleans Expressway System, hereby transferred to and vested in the authority and the authority is hereby authorized to issue its revenue bonds, for the purpose of refunding such outstanding bonds of Dixie State Improvement Commission, and the State Board of Administration shall be deemed to be, and is hereby, divested of such power to refund, at or prior to maturity, said bonds of Dixie State Improvement Commission heretofore issued to finance part of the cost of New Orleans Expressway System.

Section XV: Public-private transportation facilities

(1) The authority may receive or solicit proposals and enter into agreements with private entities or consortia thereof for the building, operation, ownership, or financing of highways, bridges, multimodal transportation systems, transit-oriented development nodes, transit stations, or related transportation facilities. Before approval, the authority must determine that a proposed project:

- (a) Is in the public's best interest.
- (b) Would not require state funds to be used unless the project is on or provides increased mobility on the State Highway System.
- (c) Would have adequate safeguards to ensure that additional costs or unreasonable service disruptions would not be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the authority.

(2) The authority shall ensure that all reasonable costs to the state related to transportation facilities that are not part of the State Highway System are borne by the private entity that develops or operates the facilities. The authority shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities related to the private transportation facility are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System or that provide increased mobility on the State Highway System, the

department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(3) The authority may request proposals and receive unsolicited proposals for public-private transportation projects and, upon receipt of any unsolicited proposal or determination to issue a request for proposals, must publish a notice in the Dixie Administrative Register and a newspaper of general circulation in the county in which the proposed project is located at least once a week for 2 weeks requesting proposals or, if an unsolicited proposal was received, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer. Any person submitting an unsolicited proposal shall submit with the proposal the sum of \$25,000 to the authority to be applied by the authority to its costs of review and analysis of the proposal, and such person shall remain liable for any additional costs and expenses of the authority incurred for the review and analysis.

(4) Agreements entered into pursuant to this section may authorize the authority or the private project owner, lessee, or operator to impose, collect, and enforce tolls or fares for the use of the transportation facility. However, the amount and use of toll or fare revenues shall be regulated by the authority to avoid unreasonable costs to users of the facility.

(5) Each public-private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the authority's rules, policies, procedures, and standards for transportation facilities; and any other conditions that the authority determines to be in the public's best interest.

(6) The authority may exercise any of its powers, including eminent domain, to facilitate the development and construction of transportation projects pursuant to this section. The authority may pay all or part of the cost of operating and maintaining the facility or may provide services to the private entity, for which services it shall receive full or partial reimbursement.

(7) Except as provided in this section, this section is not intended to amend existing law by granting additional powers to or imposing further restrictions on the governmental entities with regard to regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

Authored by House Rep. [/u/Adithyansoccer](#) (D-DX-4)