

ACT No. 358

2015 Regular Session

HOUSE BILL NO. 756

BY REPRESENTATIVES OURSO AND LAMBERT

1 AN ACT

2 To amend and reenact R.S. 48:27(A), (B), (C), (D)(1)(a) and (2)(a), (E), (F), (G), (H)(1) and
3 (12), and (J), relative to Grant Anticipation Revenue Bonds; to provide for technical
4 corrections; to provide for the definitions of certain terms; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 48:27(A), (B), (C), (D)(1)(a) and (2)(a), (E), (F), (G), (H)(1) and
8 (12), and (J) are hereby amended and reenacted to read as follows:

9 §27. Grant Anticipation Revenue Vehicles

10 A. Short title. This ~~Act~~ Section shall be known and cited as the "Grant
11 Anticipation Revenue Vehicle Act ~~of 2002~~".

12 B. Legislative findings and determinations. (1) The Legislature of
13 Louisiana hereby finds and determines that the rapid growth of the economy of this
14 state has prompted new and ever-increasing uses of public highways, roads, and
15 other transportation infrastructure, and it is critical to the well-being and quality of
16 life of the citizens of this state that the state address, on an accelerated basis, the
17 long-term transportation needs of this state. The Legislature of Louisiana further
18 determines that current transportation funding mechanisms do not provide adequate
19 revenues to keep pace with the increasing demands of the state's transportation
20 system.

21 (2) By utilizing revenue anticipation bonds for the financing of state
22 transportation projects that may be financed, in whole or in part, with federal
23 transportation funds, a significant amount of up-front revenues can be generated for
24 such transportation projects. This will enable the design and construction of

1 transportation projects on an accelerated basis. Utilizing revenue anticipation bonds
 2 to finance federal-aid transportation projects and state transportation projects will
 3 result in significant cost savings to the state, since such transportation projects can
 4 be completed at present day costs and at an accelerated pace.

5 (3) The Legislature of Louisiana further finds and declares that the bonds
 6 authorized herein constitute revenue bonds as provided in Article VII, Section 6 of
 7 the Constitution ~~of Louisiana~~ and the payment of the bonds with the amounts
 8 authorized herein is permitted under Article VII, Section 27 of the Constitution ~~of~~
 9 ~~Louisiana~~ as part of the department's program for state highway construction.

10 (4) It is hereby determined that the issuance of the bonds and the program
 11 as herein authorized are in all respects public and governmental purposes for the
 12 improvement of the health, safety, welfare, comfort, and security of the people of the
 13 state, and that said purposes are public purposes and that the State Bond Commission
 14 on behalf of the state of Louisiana will be performing an essential governmental
 15 function and meeting a public obligation in the exercise of the powers conferred
 16 upon it by this ~~Act~~ Section.

17 C. Definitions. Whenever used in this ~~Act~~ Section, unless a different
 18 meaning clearly appears in the context, the following terms shall mean the following:

19 (1) ~~"Act" means this Act.~~

20 (2) "Bonds" means bonds, notes, or other evidences of indebtedness.

21 (3)(2) "Constitution" means the ~~constitution of the state, as amended~~
 22 Louisiana Constitution of 1974.

23 (4)(3) "Department" means the Department of Transportation and
 24 Development ~~of the state of Louisiana~~.

25 (5)(4) "Federal transportation funds" means funds paid or reimbursed to the
 26 department by the United States Department of Transportation including, without
 27 limitation, future Federal Highway Administration obligational authority or Federal
 28 Highway Administration reimbursement funds and any other monies payable under
 29 Title 23 of the United States Code, as amended ~~from time to time~~.

1 ~~(6)(5)~~ "Qualified federal-aid transportation project" ~~means any state project~~
2 ~~that may be financed, pursuant to Article VII, Section 27(B) of the Constitution of~~
3 ~~Louisiana, in whole or in part, with federal transportation funds~~ means any project
4 ~~to be constructed, in whole or in part, with monies appropriated out of the~~
5 ~~Transportation Trust Fund, Article VII, Section 27 of the Constitution of Louisiana,~~
6 ~~including but not limited to a new bridge across the Mississippi River connecting~~
7 ~~Louisiana Highway 1 to Louisiana Highway 30.~~

8 ~~(7)(6)~~ "State" means the state of Louisiana.

9 ~~(8)(7)~~ "State Bond Commission" means the State Bond Commission of the
10 state, acting on behalf of the state.

11 ~~(9)(8)~~ "State matching funds" means fees, rates, rentals, taxes, tolls, charges,
12 grants, or other receipts or income derived by or in connection with a transportation
13 project or undertaking, other than federal transportation funds, that may be used by
14 the department to pay the costs of any qualified federal-aid transportation projects
15 or state transportation projects.

16 ~~(10)(9)~~ "State transportation project" means any state transportation project
17 other than the projects enumerated in Act No. 16 of the 1989 First Extraordinary
18 Session of the Louisiana Legislature, including but not limited to a new bridge across
19 the Mississippi River connecting Louisiana Highway 1 to Louisiana Highway 30.

20 D. Power to issue bonds; repayment; principal amount of bonds.

21 (1)(a) The State Bond Commission, or its successor, on behalf of the state,
22 is hereby authorized to issue bonds for the purpose of financing any qualified
23 federal-aid transportation project or state transportation project, including but not
24 limited to a new bridge across the Mississippi River connecting Louisiana Highway
25 1 to Louisiana Highway 30, secured by a pledge of and payable from any of the
26 following:

27 (i) ~~Federal transportation funds and state~~ State matching funds, if any, that
28 are appropriated on an annual basis for such purpose by the state.

1 (ii) Federal transportation funds maintained in a separate identifiable fund
 2 or account outside of the state treasury as provided in Subparagraph (2)(a) of this
 3 Subsection.

4 ~~(ii)~~(iii) Any proceeds of such bonds and any earnings from the investment
 5 of such bond proceeds pledged for such purpose.

6 ~~(iii)~~(iv) Other revenues, funds, or other security, if any, pledged or
 7 appropriated for such purpose under state law.

8 * * *

9 (2)(a) The portion of the principal of and interest on the bonds and the costs
 10 associated with the issuance and administration of such bonds that may be paid from
 11 federal transportation funds pursuant to federal law and any agreement between the
 12 United States Department of Transportation and the department hereinafter referred
 13 to in this Paragraph as "the federal share of principal, interest, and costs", shall be
 14 paid from federal transportation funds ~~that the legislature, in its sole discretion, has~~
 15 ~~appropriated on an annual basis for this purpose in accordance with state law. In~~
 16 accordance with the provisions of Article VII, Section 9(A)(6) of the Constitution,
 17 there is hereby established a special fund for the purpose of providing for the
 18 securitization of any bonds which may be issued pursuant to the provisions of this
 19 Section which shall include requirements for reserves and credit enhancement
 20 devices, all as may be provided in any resolution, trust agreement, indenture, or other
 21 instrument pursuant to which the bonds were issued. The fund shall be administered
 22 by a trustee as designated by the State Bond Commission. The source of monies in
 23 the fund shall be the federal transportation funds. Federal transportation funds, up
 24 to the amount necessary to pay principal and interest on the bonds, all costs of
 25 issuance, any requirement for reserves, or credit enhancement devices shall be set
 26 aside in a separate identifiable fund or account outside of the state treasury but
 27 maintained by the state treasury and the revenues shall be assigned and pledged to
 28 the trustee under the documents pursuant to which the bonds were issued for the
 29 benefit of the bondholders. After satisfaction of all requirements of this Section,

1 federal transportation funds received by the state shall be available for any other
2 purposes.

3 * * *

4 E. Resolutions; trust agreement, publication; peremption. The State Bond
5 Commission shall authorize the bonds by a resolution or resolutions adopted by the
6 State Bond Commission. However, the State Bond Commission shall not authorize
7 the issuance of bonds pursuant to this Section unless such bonds and the projects to
8 be funded by them have been previously approved by the ~~Joint Committee on~~
9 ~~Transportation, Highways and Public Works~~ House Committee on Transportation,
10 Highways and Public Works and the Senate Committee on Transportation, Highways
11 and Public Works. The bonds issued pursuant to this Section may also be secured
12 by a trust agreement by and between the State Bond Commission and one or more
13 corporate trustees or fiscal agents which may be any trust company or bank having
14 the powers of a trust company within or outside the state. The state treasurer may
15 enter into a collection agreement with the trustee to provide for the collection of
16 federal transportation funds. Such resolution or trust agreement may provide that the
17 trustee bank shall hold the proceeds of the bond pending expenditure for projects as
18 approved by the Joint Legislative Committee on the Budget. The State Bond
19 Commission after authorizing the issuance of bonds by resolution shall publish once
20 in the official journal of the state, as provided by law, a notice of intention to issue
21 the bonds, which notice shall include a description of the bonds and the security
22 therefor. Within thirty days after the publication, any person in interest may contest
23 the legality of the resolution, any provision of the bonds to be issued pursuant to it,
24 the provision securing the bonds, and the validity of all other provisions and
25 proceedings relating to the authorization and issuance of the bonds. If no action or
26 proceeding is instituted within the thirty days, no person may contest the validity of
27 the bonds, the provisions of the resolution pursuant to which the bonds were issued,
28 the security of the bonds, or the validity of any other provisions or proceedings
29 relating to their authorization and issuance, and the bonds shall be presumed

1 conclusively to be legal. Thereafter no court shall have authority to inquire into such
 2 matters.

3 F. Financial obligations subject to appropriation. Any bond issued in
 4 accordance with this Section shall constitute a contract between the state of
 5 Louisiana and the owner or holder thereof. In no event shall any decision by the
 6 state not to appropriate; ~~state matching funds; or federal transportation funds~~ in any
 7 given fiscal year for the payment of such bonds or any costs associated with the
 8 issuance and administration for such bonds be construed to constitute an action
 9 impairing such contract. Every contract entered into by the State Bond Commission
 10 pursuant to the provisions of this Section shall provide that all ~~financial~~ state
 11 matching fund obligations of the state under such contracts are subject to
 12 appropriation on an annual basis by the state and that such contracts do not constitute
 13 or create debt of the state, within the meaning of any constitutional or statutory
 14 provisions whatsoever, and neither the full faith or credit nor the taxing power of the
 15 state is pledged to the payment of the principal of, premium, if any, or the interest
 16 on the bonds. In addition, bonds issued by the State Bond Commission on behalf of
 17 the state pursuant to the provisions of this Section and every contract relating to the
 18 issuance of such bonds shall provide that all financial obligations of the state in
 19 regard to the portion of the principal of and interest on such bonds and the costs
 20 associated with the issuance and administration of such bonds that may be paid from
 21 federal transportation funds pursuant to federal law and any agreement between the
 22 United States Department of Transportation and the department are subject to
 23 continuing federal appropriations of federal transportation funds at a level equal to
 24 or greater than the amount needed to pay the federal share of principal, interest, and
 25 costs on the bonds.

26 G. Pledges. Any pledge made by the State Bond Commission pursuant to
 27 this Section shall be valid and binding from the time the pledge is made. The
 28 revenues, securities, and other monies so pledged and then held or thereafter received
 29 by the ~~State Bond Commission~~ state or any fiduciary shall immediately be subject
 30 to the lien of such pledge without any physical delivery thereof or further act, and the

1 lien of any such pledge shall be valid and binding as against all parties having claims
 2 of any kind in tort, contract, or otherwise against the State Bond Commission
 3 whether or not such parties have notice thereof. Neither the resolution nor any trust
 4 agreement by which a pledge is created need be filed or recorded except in the
 5 official minutes of the State Bond Commission.

6 H.(1) Certain details of the bonds. Notwithstanding any provision of law to
 7 the contrary, the bonds shall be of such series, bear such date or dates, be serial or
 8 term bonds, mature at such time or times no later than thirty years from their date,
 9 bear interest at such fixed, variable, or adjustable rate or rates payable on such date
 10 or dates, be in such denomination, be in such form, carry such registration and
 11 exchangeability provisions, be payable in such medium of payment and at such place
 12 or places, be subject to such terms of redemption, and be entitled to such priorities
 13 on the amounts pledged to secure the bonds as the resolution or trust agreement
 14 authorizing or securing such bonds may provide. The bonds may be additionally
 15 secured by municipal bond insurance, bank guarantees, surety bonds, letters of
 16 credit, lines of credit, or other devices to enhance the credit quality of the bonds, or
 17 any combination thereof, as the State Bond Commission determines. ~~In addition,~~
 18 ~~derivative products, including interest rate exchange agreements and other interest~~
 19 ~~rate hedge agreements, may be used to either enhance the marketability of the bonds~~
 20 ~~or to minimize interest rate risks, or both.~~

21 * * *

22 (12) Complete authority. This Section does and shall be construed to
 23 provide a complete method for the doing of the things authorized hereby. No
 24 proceedings, notice, or approval shall be required for the issuance of any bonds or
 25 of any instruments or security therefor or any credit enhancement except as provided
 26 herein and the bonds issued hereunder shall not be included in the calculation of net
 27 state tax supported debt as defined in R.S. 39:1367 unless the bonds are served by
 28 a state appropriation as set forth in a cooperative endeavor agreement. The

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 provisions of this ~~Act~~ Section shall be liberally construed for the accomplishment of
2 its purposes.

3 * * *

4 J. Powers. The powers conferred by this ~~Act~~ Section shall be in addition and
5 supplemental to, and not in substitution for, and the limitations imposed by this ~~Act~~
6 Section shall not directly or indirectly modify, limit, or affect, the powers conferred
7 to the department or the State Bond Commission by any other law.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____