

ACT No. 830

Regular Session, 2014

HOUSE BILL NO. 979

BY REPRESENTATIVE ST. GERMAIN

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AN ACT

To amend and reenact R.S. 48:77(B)(2) and to enact Chapter 18 of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:1801 through 1806, relative to the Department of Transportation and Development; to create the Louisiana Transportation Infrastructure Bank; to provide for a board of directors; to provide for membership, duties, and authority of the board; to provide for the adoption of bylaws, rules, and regulations by the board; to provide for the receipt, administration, and expenditure of federal grants allotted for the fund; to create and provide for the capitalization of the Louisiana Transportation Infrastructure Fund, investment, and disposition of the funds; to authorize the bank to incur debt and issue bonds, notes, or other evidences of indebtedness and to guarantee the debt of other entities; to authorize loans from the fund to local governments, political subdivisions, and public entities; to provide procedures for political subdivisions to enter into such indebtedness; to exempt evidence of indebtedness from taxation; to exempt any debt of or obligation entered into by the infrastructure bank from being used in the calculation of net state tax supported debt; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 18 of Title 32 of the Louisiana Revised Statutes of 1950, comprised of R.S. 32:1801 through 1806, is hereby enacted to read as follows:

CHAPTER 18. LOUISIANA TRANSPORTATION INFRASTRUCTURE BANK

§1801. Louisiana Transportation Infrastructure Bank; purposes; establishment; capitalization of fund; disposition of monies; administration

A. In order to continue to provide transportation funds to municipalities, other political subdivisions, and other public entities for the planning, design,

1 construction, and maintenance connected with the state highway system, it is the
2 purpose of this Chapter to do the following:

3 (1) Provide for the establishment and administration of a transportation
4 infrastructure bank to make loans and provide other assistance to public entities
5 carrying out or proposing to carry out eligible transportation projects and enter into
6 such cooperative agreements, interstate compacts, and cooperative endeavor
7 agreements as may be necessary and proper to fulfill the purposes of the Chapter.

8 (2) Provide for the receipt, administration, and use by the transportation
9 infrastructure bank of federal funds contributed to it pursuant to federal law, rule, or
10 regulation, funds appropriated or otherwise provided by the state or any local
11 governing authority, and funds derived or contributed from, or otherwise provided
12 by, any other sources.

13 (3) Authorize the transportation infrastructure bank to establish and
14 administer a revolving fund for eligible transportation projects and to use the sums
15 on deposit in, credited to, or otherwise received by the infrastructure bank for the
16 purposes provided in this Section.

17 (4) Authorize the transportation infrastructure bank to issue bonds, notes, or
18 other evidences of indebtedness.

19 B. The following terms as used in this Chapter shall have the following
20 meanings:

21 (1) "Department" means the Department of Transportation and
22 Development.

23 (2) "Eligible transportation project" means a plan or proposal approved by
24 the department which would require or use funds or other assistance provided by the
25 infrastructure bank, whether a transportation infrastructure bank loan or other
26 assistance in accordance with applicable federal provisions, to construct, improve,
27 or maintain a transportation project on the state highway system or that provides for
28 increased mobility on the state highway system or provides intermodal connectivity
29 with airports, seaports, rail facilities, and other transportation terminals for the
30 movement of people and goods.

1 (3) "Infrastructure bank" means the Louisiana Transportation Infrastructure
 2 Bank provided for in this Chapter.

3 (4) "Infrastructure bank loan" means any bond, note, or other evidence of
 4 indebtedness, or a commitment, pledge, loan, letter of credit, guarantee, subsidy, or
 5 other obligation of any public entity for an eligible transportation project.

6 §1802. Louisiana Transportation Infrastructure Bank; structure; powers; duties

7 A. There is hereby established within the Department of the Treasury the
 8 Louisiana Transportation Infrastructure Bank, which shall be allocated to the
 9 Department of the Treasury as an agency of the state.

10 B.(1) The Louisiana Transportation Infrastructure Bank shall be governed
 11 by a board of directors, referred to as "the board", composed of the following
 12 members:

13 (a) The secretary of the Department of Transportation and Development, or
 14 his designee.

15 (b) The state treasurer, or his designee.

16 (c) The chairman of the Senate Committee on Transportation, Highways, and
 17 Public Works, or his designee.

18 (d) The chairman of the House Committee on Transportation, Highways, and
 19 Public Works, or his designee.

20 (e)(i) One member appointed by a majority of the other members enumerated
 21 in this Paragraph from among three nominees who shall be nominated by the
 22 Louisiana Bankers Association and who shall possess no less than five years'
 23 experience in commercial lending or investment banking practices.

24 (ii) The member selected pursuant to this Subparagraph shall serve a three-
 25 year term. A vacancy in this position shall be filled in the manner provided in Item
 26 (i) of this Subparagraph for the remainder of the three-year term.

27 (f)(i) One member appointed by the board members of the State Board of
 28 Certified Public Accountants of Louisiana and who shall possess no less than five
 29 years' experience in professional accounting and auditing standards for financial
 30 accounting, management, and reporting.

1 (ii) The member appointed pursuant to this Subparagraph shall serve a three-
 2 year term. A vacancy in this position shall be filled in the manner provided in Item
 3 (i) of this Subparagraph for the remainder of the three-year term.

4 (g)(i) One member appointed by the governor from the board of directors of
 5 the Louisiana Good Roads and Transportation Association with no less than five
 6 years' experience in transportation program planning.

7 (ii) The member appointed pursuant to this Subparagraph shall serve a three-
 8 year term. A vacancy in this position shall be filled in the manner provided in Item
 9 (i) of this Subparagraph for the remainder of the three-year term.

10 (2) The board shall adopt bylaws for its own internal organization and
 11 government, including the election of officers and conduct of meetings in accordance
 12 with the Louisiana Open Meetings Law, R.S. 42:11 et seq.

13 (3) The board shall promulgate rules and regulations, in accordance with the
 14 Administrative Procedure Act, R.S. 49:950 et seq., for the appointment and
 15 responsibilities of committees; review, consideration, and approval or rejection of
 16 applications for infrastructure bank loans; and the administration of the infrastructure
 17 bank and the fulfillment of any and all responsibilities and duties and exercise of any
 18 rights and authority of such infrastructure bank as provided in this Chapter.

19 (4) The state treasurer shall serve as chairman of the infrastructure bank and
 20 the board may select such other officers as it may deem necessary.

21 C. The board shall have authority and responsibility for reviewing and acting
 22 to approve or deny any application for infrastructure bank loans or other assistance,
 23 made by any public entity for an eligible transportation project. No application for
 24 any infrastructure bank loan or other assistance shall be made without prior approval
 25 of the proposed transportation project by the department. The department shall have
 26 the sole discretion, authority, and control over all aspects of the review of any and
 27 all construction, engineering, and related technical aspects of such transportation
 28 projects.

29 D. Following the close of each state fiscal year, an annual report of
 30 infrastructure bank applications and approved transportation projects shall be

1 submitted to the House Committee on Transportation, Highways, and Public Works
2 and the Senate Committee on Transportation, Highways, and Public Works no later
3 than September first of each year. The infrastructure bank shall submit an annual
4 report to the appropriate federal agency in accordance with requirements of any
5 federal program.

6 E. The infrastructure bank shall have the powers necessary or convenient to
7 carry out its mission and the purpose described in this Chapter, including the
8 following:

9 (1) To sue and be sued.

10 (2) To adopt an official seal and alter the same at its pleasure.

11 (3) To appoint an executive director to administer the affairs of the
12 infrastructure bank, who shall be an employee of the state treasurer approved by the
13 board of directors of the infrastructure bank.

14 (4) To make and execute contracts and other agreements, instruments, and
15 documents necessary or convenient for the exercise of its powers and functions under
16 this Chapter, with any federal or state government agency, local government,
17 political subdivision, or other public or private entity, and to act in furtherance of its
18 interests therein, including but not limited to credit enhancement devices, guarantees,
19 pledges, interest rate swap agreements, contracts, and agreements with federal
20 agencies, political subdivisions, public trusts, departments, boards, agencies,
21 commissions of the state, and other parties to the extent necessary or convenient for
22 the implementation of the purpose of infrastructure bank as provided for in this
23 Chapter.

24 (5) To receive and administer grants from the federal government or its
25 agencies allotted to the state for the capitalization of the state infrastructure bank or
26 revolving loan or investment fund, state funds when required or otherwise made
27 available, or any other funds or property lent, granted, or donated or otherwise
28 provided for the purposes provided for in this Chapter, subject to compliance with
29 the terms of a federal or state grant, if any, and other applicable state or federal law,
30 rule, or regulation.

1 (6) To make loans from federal funds or funds on deposit in, credited to, or
2 to be received by the infrastructure bank, provided that no transportation project shall
3 be considered by the infrastructure bank without prior approval of the department
4 and interest on such loans shall be at or below market interest rates for a period not
5 to exceed five years from the completion of the construction of an eligible
6 transportation project.

7 (7) To offer and to make or enter into loan guarantees, letters of credit, or
8 other forms of assistance for eligible transportation projects.

9 (8) To provide payments to reduce interest on loans and loan guarantees for
10 eligible transportation projects.

11 (9) To make bond interest subsidies for bonds issued to fund eligible
12 transportation projects.

13 (10) To provide bond guarantees to any public entity for eligible
14 transportation projects.

15 (11) To provide assistance to any parish, municipality, or other local political
16 subdivision with respect to the nonfederal share of the costs of eligible transportation
17 projects.

18 (12) To finance the cost of and the preparation of plans, specifications, and
19 estimates for construction of publicly-owned eligible transportation projects.

20 (13) To finance the cost of purchase or lease agreements related to eligible
21 transportation projects.

22 (14) To secure the principal, interest, and premium, if any, on bonds or other
23 evidence of indebtedness issued for an eligible transportation project, provided that
24 the proceeds of such bonds are both of the following:

25 (a) Deposited in the infrastructure bank.

26 (b) Used only to pay for an eligible transportation project or to refund any
27 obligation the proceeds of which are used to pay for an eligible transportation project
28 to the extent provided and allowed by the terms of a federal grant, or the terms of any
29 other type of loan, grant, or donation received for the purposes provided for in this
30 Chapter.

1 (15) To improve credit market access by guaranteeing, arranging, or
2 purchasing bond insurance or other credit enhancement devices for debt obligations
3 issued for an eligible transportation project.

4 (16) To fund any other programs which the federal government authorizes
5 by the terms of grants made for the fund or made for purposes for which the fund is
6 authorized.

7 (17) To provide for any other expenditure consistent with a federal grant
8 program and state law.

9 (18) To enter into contracts with participating entities through which such
10 parties may agree to share in the costs of operating the infrastructure bank.

11 (19) To establish, by rule adopted pursuant to the Administrative Procedure
12 Act, a schedule of reasonable fees and charges to pay the costs of administering the
13 infrastructure bank.

14 §1803. Louisiana Transportation Infrastructure Fund; creation; sources of
15 capitalization; authorizing and issuing debt

16 A. The Louisiana Transportation Infrastructure Fund is hereby established
17 and shall be maintained and operated by the board of directors of the Louisiana
18 Transportation Infrastructure Bank so authorized to administer a revolving fund for
19 eligible transportation projects and to use the sums on deposit in, credited to, or
20 otherwise received by the infrastructure bank for the purpose provided in this
21 Chapter. The Louisiana Transportation Infrastructure Fund shall provide assistance
22 to eligible recipients for eligible transportation projects of the Louisiana
23 Transportation Infrastructure Bank as may be permitted by the federal act or federal
24 regulations and by this Chapter.

25 B.(1) Money needed for the operation of the infrastructure bank or otherwise
26 dedicated shall be invested by the state treasurer as provided by law for the
27 investment of other state funds, except as may be limited by federal law or the terms
28 and conditions of any grant, related to money deposited in the revolving loan fund.

29 (2) Provided that such monies shall be deposited in the Louisiana State
30 Infrastructure Bank Fund only after satisfaction of all requirements of R.S. 47:820.2

1 and R.S. 48:196.1 have been met in the fiscal year, revenues used to capitalize the
2 Louisiana State Infrastructure Bank Fund include but are not limited to the
3 following:

4 (a) Investments by the state treasurer as provided by law for the investment
5 of other state funds.

6 (b) Seven percent of the remainder of total avails deposited in the
7 Transportation Trust Fund pursuant to R.S. 48:77(B)(2).

8 C.(1) Notwithstanding any provision of the law to the contrary, and in
9 addition to the authority to lend or borrow money or incur or guarantee indebtedness
10 provided by any other provisions of the law, sums on deposit in and credited to the
11 Louisiana Transportation Infrastructure Bank Fund may be lent to parishes,
12 municipalities, and other political subdivisions of the state, or other public entities
13 for use in connection with eligible transportation projects. However, this Section
14 shall not be deemed to be the exclusive authority under which parishes,
15 municipalities, or other political subdivisions, or other political entities, may borrow
16 money or incur indebtedness.

17 (2) Parishes, municipalities, or political subdivisions may enter into
18 infrastructure bank loans in accordance with this Section, provided that no such loan
19 shall be made nor debt evidencing such loan by any parish, municipality, or other
20 political subdivision shall be issued or incurred without the prior approval of the
21 State Bond Commission.

22 D. No money in the fund may be expended or otherwise used, nor any bonds
23 or other evidences of indebtedness or other obligations issued or insured for any
24 specific transportation project or for any payment, expenditure, commitment, pledge,
25 loan, letter of credit, guarantee, subsidy, or other activity related to transportation
26 projects or the financing thereof without the prior written approval of the State Bond
27 Commission.

1 §1804. Louisiana Transportation Infrastructure Fund; security; interest rates; tax
2 exemption

3 A. All bonds, notes, or other evidence of indebtedness of any parish,
4 municipality, or other political subdivision issued to represent an infrastructure bank
5 loan shall be authorized and issued pursuant to a resolution of the governing
6 authority of such political subdivision. Such resolution shall prescribe the form and
7 details thereof, including the terms, security for, manner of execution, repayment
8 schedule, and redemption features thereof, and such resolution may provide that an
9 officer of such political subdivision may execute in connection with such obligation
10 any related contract, including but not limited to a credit enhancement device,
11 indenture of trust, loan or pledge agreement, or any other agreement or contract
12 needed to accomplish the purpose of said resolution, but which final executed credit
13 enhancement device, indenture or trust, loan or pledge agreement, or other contract
14 or agreement may contain such changes, additions, and deletions as shall, in the sole
15 opinion of the executing officer, be appropriate under the circumstances. Any such
16 resolution shall include a statement as to the maximum principal amount of any such
17 obligation, the maximum interest rate to be incurred or borne by said obligation or
18 guaranteed by said obligation, the maximum redemption premium, if any, and the
19 maximum term in years for such obligation, guarantee, or pledge.

20 B. Notwithstanding any other provision of law to the contrary, a parish,
21 municipality, or other local political subdivision, upon entering into an infrastructure
22 bank loan as provided in this Chapter, may dedicate and pledge a portion of any
23 revenues it has available to it, including but not limited to revenues from the general
24 revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem
25 property taxes of the parish, municipality, or other local political subdivision for a
26 term not exceeding five years from the date of project completion for repayment of
27 the principal of, interest on, and any premium, administrative fee, or other fee or cost
28 incurred, in connection with such loan.

29 C. Any evidence of indebtedness authorized pursuant to this Chapter shall
30 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the

1 resolution authorizing and providing for the issuance thereof. Any such rate or rates
2 of interest may be at fixed, variable, or adjustable rates.

3 D. The general laws of the state governing fully registered securities of
4 public entities shall be applicable to the bonds, notes, or other evidence of
5 indebtedness issued pursuant to this Section.

6 E. Any resolution authorizing an infrastructure bank loan pursuant to this
7 Section shall be published once in the official journal of the parish, municipality, or
8 other political subdivision incurring such loan. It shall not be necessary to publish
9 exhibits to any such resolution, but such exhibits shall be made available for public
10 inspection at the offices of the governing authority of the parish, municipality, or
11 other political subdivision at reasonable times, and such fact must be stated in the
12 publication within the official journal. For a period of thirty days after the date of
13 such publication, any person in interest may contest the legality of the resolution
14 authorizing such evidence of indebtedness or other infrastructure bank loan and any
15 provision thereof made for the security and payment thereof. After the thirty-day
16 period, no one shall have any cause or right of action to contest the regularity,
17 formality, legality, or effectiveness of said resolution and the provisions thereof or
18 of the bonds, notes, or other evidence of indebtedness or other infrastructure bank
19 loan, or to provide for the payment thereof, or the legality thereof, and all of the
20 provisions of the resolutions and such evidence of indebtedness shall be conclusively
21 presumed, and no court shall have authority or jurisdiction to inquire into any such
22 matter.

23 F. Bonds, notes, or other evidence of indebtedness issued or any
24 infrastructure bank loan entered into under authority of this Section shall be exempt
25 from all taxation for state, parish, municipal, or other purposes. Such bonds, notes,
26 or other evidence of indebtedness or infrastructure bank loans may be used for
27 deposit with any officer, board, municipality, or other political subdivision of the
28 state, in any case where, by present or future laws, deposit of security is required for
29 state funds.

1 §1805. General power to issue and incur debt; to issue and undertake guarantees and
2 the debt of other entities

3 A. The infrastructure bank may issue, incur, and deliver debt evidenced by
4 bonds, notes, or other evidences of indebtedness, payable from or secured by sums
5 deposited in, credited to, or to be received in the infrastructure bank. The
6 infrastructure bank is further authorized to undertake and to issue and deliver
7 evidence of its guarantee of the debt of other entities and is authorized to enter into
8 and execute pledges of the sums deposited in, credited to, or to be received by the
9 infrastructure bank, including payments pursuant to letters of credit, to secure the
10 debt or performances of obligation entities for eligible transportation projects. Such
11 bonds, notes, or other evidence of indebtedness, such guarantees, and such pledges
12 issued and delivered pursuant to this authority shall constitute special and limited
13 obligations of the infrastructure bank and shall not be secured by the full faith and
14 credit of the state or any source of revenue of the state other than those sums on
15 deposit in, credited to, or to be received by the infrastructure bank, including
16 payments to be made pursuant to letters of credit.

17 B. In no event shall any bond, note, or other evidence of indebtedness, or
18 guarantee, pledge, or other obligation of any type whatsoever entered into by the
19 infrastructure bank be used in the calculation of net state tax supported debt as
20 provided by Article VII, Section 6(F) of the Constitution of Louisiana.

21 §1806. Public purpose only

22 Funds expended under the provisions of this Chapter shall be exclusively
23 used for public purposes to fund eligible transportation projects within the state.

24 Section 2. R.S. 48:77(B)(2) is hereby amended and reenacted to read as follows

25 §77. Transportation Trust Fund; dedication and uses of certain monies for
26 transportation purposes

27 * * *

28 B. The avails of the taxes dedicated pursuant to Subsection A of this Section
29 shall be deposited for the purposes specified:

30 * * *

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

1 (2) Seven percent to the ~~Transportation Mobility~~ Louisiana Transportation
2 Infrastructure Fund established by R.S. 32:1803. ~~Unless otherwise approved by the~~
3 ~~Louisiana Transportation Authority, the avails deposited in the Transportation~~
4 ~~Mobility Fund pursuant to Subsection A of this Section shall be used exclusively for~~
5 ~~final design and construction and shall not be used for studies.~~

6 * * *

7 Section 3. This Act shall take effect and become operative if and when the proposed
8 amendment of Article VII, Sections 10.3, 14, and 27 of the Constitution of Louisiana
9 contained in the Acts which originated as House Bill Nos. 628 and 629 of this 2014 Regular
10 Session of the Legislature are adopted at the statewide election to be held on November 4,
11 2014, and become effective.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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