

First Extraordinary Session, 2005

HOUSE BILL NO. 157

BY REPRESENTATIVES ALARIO, HAMMETT, AND SALTER

BONDS/GENERAL OBLIGATION: Authorizes issuance of bonds and provides for use of bond proceeds to provide relief from natural catastrophe (Item #28)

1 AN ACT

2 To enact Chapter 10-A of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950,
3 to be comprised of R.S. 39:1370.1 through 1370.8, relative to the Louisiana Disaster
4 Assistance Program Act; to provide for the issuance of bonds of the state to provide
5 relief from natural catastrophes; to provide a program to assist state and local
6 governments relative to disaster relief and relief from natural catastrophes; to provide
7 funding for the Department of Economic Development to provide loans to business
8 entities; to provide the procedures for the issuance of the bonds; to provide for an
9 effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 10-A of Subtitle III of Title 39 of the Louisiana Revised Statutes
12 of 1950, comprised of R.S. 39:1370.1 through 1370.8, is hereby enacted to read as follows:

13 CHAPTER 10-A. LOUISIANA DISASTER ASSISTANCE PROGRAM ACT

14 §1370.1. Short title

15 This Chapter shall be known and may be cited as the "Louisiana Disaster
16 Assistance Program Act".

17 §1370.2. Legislative findings, determinations and intent

18 A. The legislature hereby finds that Hurricanes Katrina and Rita resulted in
19 natural catastrophes severely impacting the state of Louisiana and the public entities
20 therein. The impact has and continues to restrict the ability of the state and the

1 affected public entities to deliver essential governmental services to the people of the
2 state in the areas of health, education, safety, welfare, comfort, and security and to
3 pay existing debt obligations and operating expenses.

4 B. The legislature further finds and determines that, as a result of Hurricanes
5 Katrina and Rita, the state and the affected public entities have suffered catastrophic
6 or substantial losses of tax and other revenues which have, or may, adversely affect
7 the credit rating of the state or the affected public entities.

8 C. The legislature further finds and determines that the natural catastrophes
9 severely impacted the financial stability of private business entities which provide
10 a tax base and jobs which are imperative to the financial well-being of the state and
11 the affected public entities.

12 D. The legislature further determines that:

13 (1) The issuance of bonds of the state is necessary to provide immediate relief
14 from the natural catastrophes, as defined in R.S. 39:1370.4.

15 (2) The issuance of bonds by the state pursuant to the authorization
16 contained in this Chapter will further an essential governmental function and public
17 obligation.

18 (3) The issuance of bonds by the state to provide funds to provide relief from
19 the natural catastrophes is essential to protect the credit rating of the state and
20 affected public entities and to provide money for the delivery of essential services
21 to the citizens of the state and affected public entities experiencing significant cash
22 flow difficulties.

23 E. It is hereby determined that the issuance of the bonds and the carrying out
24 of the program described herein is in all respects a public and governmental purpose
25 for the improvement of the health, education, safety, welfare, comfort, and security
26 of the people of the state, that said purposes are public purposes, that the state will
27 be performing an essential governmental function and meeting a public obligation
28 in the exercise of the powers conferred upon it by this Chapter, is a permitted use

1 of the funds and credit of the state, and is a cooperative endeavor for a public
2 purpose of the state and the affected public entities.

3 §1370.3. Public purpose

4 The legislature hereby declares that the payment of operating expenses of the
5 state and the affected public entities, the payment of debt service on existing bonds,
6 notes, certificates of indebtedness and other debt obligations for the repayment of
7 borrowed money of the affected public entities, the payment of the costs of capital
8 projects of the state and affected public entities, and the rapid restoration of business
9 operations to provide employment opportunities to the citizens of the state, the
10 preservation and restoration of a tax base and to restore the economic well-being of
11 the state and the affected public entities are necessary and required expenditures of
12 public funds for a public purpose and requires the pledge of state monies to meet
13 public obligations:

14 (1) To protect the credit rating of the state which may be impacted by
15 defaults of the affected public entities.

16 (2) To protect and restore the economic viability of the state by facilitating
17 the rapid restoration of economic development projects which may be necessary in
18 order to successfully secure the creation or retention of employment opportunities
19 to citizens of the state by business entities which have been impacted by the natural
20 catastrophe and which aid in the preservation and restoration of the tax base of the
21 state and affected public entities.

22 (3) To protect the lives, property, health, and welfare of citizens of the state
23 by providing essential services such as police and fire protection, trash collection,
24 emergency medical services, and other services related to protecting and promoting
25 the health, education, safety, welfare, comfort, and security of the affected
26 communities.

27 (4) To improve the financial position of the state and the affected public
28 entities resulting in economic and financial benefit to the state and the affected
29 public entities.

1 (5) To provide for the replacement, improvement, or construction of
2 essential capital projects of the state or of affected public entities made necessary by
3 the natural catastrophe.

4 (6) To provide relief from the natural catastrophe.

5 §1370.4. Definitions

6 (1) "Affected public entity" or "affected public entities" shall include public
7 entities of every type contained in those areas declared to be disaster areas by
8 executive order of the governor as a result of the natural catastrophe.

9 (2) "Bonds" shall mean general obligation bonds, bond anticipation notes,
10 notes, reimbursement agreements, or other evidences of indebtedness of the state
11 issued pursuant to the provisions of this Chapter and Article VII, Section 6 of the
12 Constitution of Louisiana.

13 (3) "Business entity" or "business entities" shall mean viable, established
14 small businesses in the affected public entities which have experienced adverse
15 impacts as a result of Hurricane Katrina or Hurricane Rita, and that, as a result of this
16 event are experiencing difficulty surviving or continuing business operations.

17 (4) "Fund" shall mean the "Louisiana Disaster Assistance Program Fund".

18 (5) "Natural catastrophes" shall mean the consequences of Hurricanes
19 Katrina and Rita on the state, affected public entities, and business entities and the
20 resulting fiscal emergency caused to exist in the state and in the affected public
21 entities.

22 (6) "OCD" shall mean the office of community development in the division
23 of administration.

24 (7) "Operating expenses" shall mean:

25 (a) Those ordinary operating expenses of the executive, legislative, or
26 judicial branches of state government, pensions, public schools, public roads, public
27 charities, and state institutions; provided that operating expenses shall not include
28 the payment of principal, interest, premium, sinking or reserve funds or other

1 requirements, costs or expenses related to bonds, notes, certificates of indebtedness,
2 or other written obligations for the repayment of borrowed money of the state.

3 (b) Those expenses relating to the performance of local operations including
4 police and fire protection, trash collection, revenue collection, emergency medical
5 services, and other services related to protecting and promoting the health, safety,
6 and public welfare of the affected public entity; provided that operating expenses
7 shall not include the payment of principal, interest, premium, sinking or reserve
8 funds or other requirements, costs or expenses related to bonds, notes, certificates of
9 indebtedness, or other written obligations for the repayment of borrowed money of
10 an affected public entity.

11 (8) "Project" shall mean:

12 (a) The payment of principal, interest, premium, sinking or reserve funds or
13 other requirements, costs or expenses due and payable on or prior to December 31,
14 2007, on bonds, notes, certificates of indebtedness, or other written obligations for
15 the repayment of borrowed money of an affected public entity.

16 (b) The payment of operating expenses of the affected public entity
17 occurring after the natural catastrophe but prior to December 31, 2007.

18 (c) The payment of the costs of capital projects to replace, improve, or
19 construct essential capital projects of the state or of the affected public entities made
20 necessary by the natural catastrophe.

21 (d) The payment of operating expenses of the state occurring after the natural
22 catastrophe but prior to June 30, 2007.

23 (e) To provide monies to the Department of Economic Development to fund
24 a bridge loan program to fund all or a portion of economic development projects
25 which may be necessary in order to successfully secure the creation or retention of
26 jobs by a business entity which has been impacted by the natural catastrophe under
27 such circumstances as may be determined by the secretary of the Department of
28 Economic Development and the governor.

1 (9) "Public entity" shall mean (a) parishes, municipalities, parish and
2 municipal school boards and districts, levee boards and districts, port boards and
3 commissions, port, harbor, terminal and industrial districts, drainage and land
4 reclamation districts, and all special service districts including but not limited to
5 road, water, sewerage, fire protection, recreation, hospital service, gas utility, and
6 garbage districts; (b) all other political subdivisions, special authorities,
7 commissions, public trusts, and boards heretofore or hereafter created by or pursuant
8 to the constitution or statutes of the state, any laws incorporated into or ratified or
9 confirmed by the constitution, or general or special charters of any parish or
10 municipality; and (c) all other units of local government created by or governed by
11 the governing authorities of parishes or municipalities.

12 §1370.5. Power to issue bonds

13 To fund the project, the State Bond Commission is hereby authorized
14 pursuant to Article VII, Section 6 of the Constitution of Louisiana to issue bonds of
15 the state, in one or more series, in an aggregate amount not to exceed one billion
16 dollars, the proceeds of which are to be distributed to affected public entities and the
17 state to provide direct funding of one or more portions of the project to provide relief
18 from the natural catastrophe.

19 §1370.6. Louisiana Disaster Assistance Program Fund

20 A. Proceeds of the bonds shall be deposited in the Louisiana Disaster
21 Assistance Program Fund which is hereby established in the state treasury. The
22 legislature may appropriate additional monies to the fund. All unexpended and
23 unencumbered monies in the fund at the end of the state's fiscal year shall remain in
24 the fund. The monies in the fund shall be invested by the state treasurer in the same
25 manner as monies in the state general fund, and interest earned on the investment of
26 these monies shall be credited to the fund.

27 B. Monies in the fund shall be used solely as provided in this Chapter and
28 shall be appropriated by the legislature for the project as follows:

1 (1) To OCD for distribution to affected public entities pursuant to a program
2 of loans and grants for the project as defined in R.S. 39:1370.4(8)(a), (b), or (c).

3 (2) To the state for expenses of the project as defined in R.S. 39:1370.4(8)(c)
4 or (d).

5 (3) To the Department of Economic Development to fund the project as
6 defined in R.S. 39:1370.4(8)(e).

7 C. Monies to be distributed to the affected public entities to fund the project
8 purposes set forth in R.S. 39:1370.4(8)(a) shall be distributed pursuant to a loan
9 program as provided in Subsection D of this Section. Monies to be distributed to the
10 affected public entities to fund the project purposes set forth in R.S. 39:1370.4(8)(b)
11 and (c) shall be distributed pursuant to a grant program. Such grants and loans shall
12 be distributed to those affected public entities designated by and in such amounts as
13 determined by OCD and approved by the commissioner of administration using
14 criteria to be developed by OCD, without the necessity for compliance with the
15 Administrative Procedure Act but shall be submitted to the Joint Legislative
16 Committee on the Budget for its review and approval prior to implementation of the
17 program. Such criteria may include:

18 (1) The amount of tax and other operating revenue loss.

19 (2) The amount of debt service due and payable on or prior to December 31,
20 2007, on bonds, notes, certificates of indebtedness, or other written obligations for
21 the repayment of borrowed money of the affected public entity.

22 (3) The amount of any revenues or other assets available to pay operating
23 expenses.

24 (4) The displacement of revenue-producing businesses.

25 (5) The projected recovery of tax and other revenues.

26 (6) The necessity to replace or eliminate essential services.

27 (7) The ability to obtain financial assistance from federal agencies.

1 (8) The capital projects which were damaged or destroyed in the natural
2 catastrophe and the necessity to replace, improve, or construct an essential capital
3 project.

4 D. Distribution of monies in the fund for the payment of debt service due and
5 payable on or prior to December 31, 2007, on bonds, notes, certificates of
6 indebtedness, or other written obligations for the repayment of borrowed money of
7 an affected public entity shall be approved by the State Bond Commission and shall
8 be made with the expectation of payment thereof to the state pursuant to (1) loans
9 evidenced by notes issued by the affected public entities pursuant to R.S. 39:1430;
10 (2) any other evidence of indebtedness pursuant to statutory authority; or (3)
11 cooperative endeavor agreements.

12 E. OCD shall furnish to the Joint Legislative Committee on the Budget a
13 report setting forth the names and dollar amounts of loans or grants to affected public
14 entities for the previous month.

15 §1370.7. Procedure for issuance of bonds, security, interest rates

16 A. The bonds authorized to be sold by the State Bond Commission pursuant
17 to this Chapter shall be issued and sold in conformity with the provisions of Article
18 VII, Section 6 of the Constitution of Louisiana; R.S. 39:1361 through 1367; R.S.
19 39:1401 through 1430.1; R.S. 39:1431 through 1437; R.S. 39:1441 through 1443;
20 R.S. 39:1444 through 1456; and any amendments thereto adopted prior to, at the
21 same time as, or subsequent to, the effective date of this Act. However, the
22 provisions of R.S. 39:1365(2), (11), (18), and (25) and R.S. 39:1402(D) and (E) shall
23 not apply to any bonds issued hereunder. Further, the provisions of R.S. 39:1365(9)
24 shall not apply to any bonds issued pursuant to this Chapter in the form of variable
25 rate and/or tender option bonds, and the bonds need not be issued in serial form and
26 may mature in such year or years as may be specified by the State Bond
27 Commission. Bonds issued pursuant to the provisions of this Chapter shall not be
28 invalid because of any irregularity or defect in the proceedings or in the issuance
29 thereof and shall be incontestable in the hands of a bona fide purchaser or holder.

1 Should any provision of this Chapter be inconsistent with any provision of the
2 Louisiana Revised Statutes of 1950, the provisions of this Chapter shall govern.

3 B. In connection with the issuance of the bonds authorized by this Chapter,
4 the State Bond Commission may, without regard to any other laws of the state
5 relating to the procurement of services, insurance, or facilities, enter into contracts
6 upon such terms as it deems advantageous to the state for (1) the obtaining of credit
7 enhancement or liquidity devices designed to improve the marketability of the bonds
8 and (2) if the bonds are structured as variable rate and/or tender option bonds, to
9 provide the services and facilities required for or deemed appropriate by the State
10 Bond Commission for such type of bonds, including those of tender agents,
11 placement agents, indexing agents, remarketing agents, and/or standby bond
12 purchase facilities. The cost of obtaining credit enhancement or liquidity devices
13 and the fees and costs of issuing the bonds, including any credit enhancement
14 devices, shall, if authorized by the State Bond Commission, be paid from the Bond
15 Security and Redemption Fund as a requirement with respect to the issuance of the
16 bonds authorized hereby.

17 C. The issuance of bonds for the refunding, readjusting, restructuring,
18 refinancing, extending, or unifying the whole or any part of outstanding bonds issued
19 pursuant to the provisions of this Chapter shall be in furtherance of the providing of
20 relief from the natural catastrophe and, therefore, may be issued with maturities
21 longer than the refunded bonds and without reference to a lower effective interest
22 rate.

23 D. The bonds shall be general obligations of the state of Louisiana, to the
24 payment of which, as to principal, premium, if any, and interest, as and when the
25 same become due, the full faith and credit of the state is hereby irrevocably pledged.
26 These bonds shall be secured by monies in the Bond Security and Redemption Fund
27 and shall be payable on a parity with bonds and other obligations heretofore and
28 hereafter issued which are secured by the Bond Security and Redemption Fund. The

1 maximum interest rate or rates on such bonds, and their maturities, shall be
2 determined by the State Bond Commission.

3 §1370.8 Construction of Act

4 Bonds issued pursuant to the provisions of this Chapter shall not be invalid
5 because of any irregularity or defect in the proceedings or in the issuance thereof and
6 shall be incontestable in the hands of a bona fide purchaser or holder. The provisions
7 of this Chapter shall be liberally construed for the accomplishment of its purposes.

8 Section 2. This Act shall expire and be considered null and void and of no further
9 effect on December 31, 2009, except as to any bonds authorized herein which have been sold
10 and as to unexpended proceeds in the fund.

11 Section 3. This Act shall become effective upon signature by the governor or, if not
12 signed by the governor, upon expiration of the time for bills to become law without signature
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
15 effective on the day following such approval.

DIGEST

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

Alario

HB No. 157

Abstract: Enacts the Louisiana Disaster Assistance Program Act.

Proposed law provides for the Louisiana Disaster Assistance Program to provide relief from
natural catastrophes.

Present constitution provides that general obligation bonds of the state may be issued only
if the funds are to be used to repel invasion, suppress insurrection, provide relief from
natural catastrophes, refund outstanding indebtedness, or make capital improvements.

Proposed law authorizes the issuance of state general obligation bonds, including bond
anticipation notes, reimbursement agreements, or other evidences of the state issued pursuant
to proposed law and Art. VII, §6 of the constitution to provide relief from natural
catastrophies by funding the project. Proposed law defines project to mean:

- (1) The payment of principal, interest, premium, sinking or reserve funds or other
requirements, costs or expenses due and payable on or prior to December 31, 2007,
on bonds, notes, certificates of indebtedness, or other written obligations for the
repayment of borrowed money of an affected public entity.
- (2) The payment of operating expenses of the affected public entity occurring after the
natural catastrophe but prior to December 31, 2007.

- (3) The payment of the costs of capital projects to replace, improve, or construct essential capital projects of the state or of the affected public entities made necessary by the natural catastrophe.
- (4) The payment of operating expenses of the state occurring after the natural catastrophe but prior to June 30, 2007.
- (5) To provide monies to the Department of Economic Development to fund a bridge loan program to fund all or a portion of economic development projects which may be necessary in order to successfully secure the creation or retention of jobs by a business entity which has been impacted by the natural catastrophe under such circumstances as may be determined by the secretary of the Department of Economic Development and the governor.

Proposed law defines "public entity" to mean (1) parishes, municipalities, parish and municipal school boards and districts, levee boards and districts, port boards and commissions, port, harbor, terminal and industrial districts, drainage and land reclamation districts, and all special service districts including but not limited to road, water, sewerage, fire protection, recreation, hospital service, gas utility, and garbage districts; (2) all other political subdivisions, special authorities, commissions, public trusts, and boards heretofore or hereafter created by or pursuant to the constitution or statutes of the state, any laws incorporated into or ratified or confirmed by the constitution, or general or special charters of any parish or municipality; and (3) all other units of local government created by or governed by the governing authorities of parishes or municipalities.

Proposed law provides that the legislature has determined that the issuance of bonds of the state is necessary to provide immediate relief from the natural catastrophes, will further an essential governmental function and public obligation, and is essential to protect the credit rating of the state and affected public entities and to provide money for the delivery of essential services to the citizens of the state.

Proposed law authorizes the State Bond Commission to issue bonds, in one or more series, in an aggregate amount not to exceed \$1 billion, the proceeds of which are to be distributed to affected public entities and the state to provide direct funding of one or more portions of the project to provide relief from the natural catastrophe.

Proposed law provides that proceeds of the bonds shall be deposited in the Louisiana Disaster Assistance Program Fund, hereinafter the "fund", which is established in the state treasury. All unexpended and unencumbered monies in the fund at the end of the state's fiscal year shall remain in the fund.

Proposed law provides that the monies in the fund shall be used solely as provided in the Act and shall be appropriated by the legislature for the project as follows:

- (1) To OCD for distribution to affected public entities pursuant to a program of loans for the payment of debt service and grants for the payment of operating expenses.
- (2) To the state for the payment of operating expenses.
- (3) To the Department of Economic Development to fund a bridge loan program for small business entities.

Proposed law provides that monies to be distributed to affected public entities shall be designated by and in such amounts as determined by the office of community development, hereinafter "OCD", within the division of administration and approved by the commissioner of administration using criteria to be developed by OCD, without the necessity for compliance with the Administrative Procedure Act. Proposed law provides that the proposed criteria shall be submitted to the Joint Legislative Committee on the Budget for its review and approval prior to implementation of the program. Such criteria may include:

- (1) The amount of tax and other operating revenue loss.

- (2) The amount of debt service due and payable on or prior to Dec. 31, 2007, on bonds, notes, certificates of indebtedness or other written obligations for the repayment of borrowed money of the affected public entity.
- (3) The amount of any revenues or other assets available to pay operating expenses.
- (4) The displacement of revenue-producing businesses.
- (5) The projected recovery of tax and other revenues.
- (6) The necessity to replace or eliminate essential services.
- (7) The ability to obtain financial assistance from federal agencies.
- (8) The capital projects which were damaged or destroyed in the natural catastrophe and the necessity to replace, improve, or construct an essential capital project.

Proposed law provides that the distribution of monies to pay debt service of an affected public entity shall be approved by the State Bond Commission.

Proposed law provides that OCD shall furnish to the Joint Legislative Committee on the Budget a report setting forth the names and dollar amounts of loans or grants to affected public entities for the previous month.

Proposed law provides the procedures for the issuance of the bonds and provides that the bonds shall be secured by monies in the Bond Security and Redemption Fund and shall be payable on a parity with all other general obligation bonds of the state.

Proposed law provides that proposed law shall expire on Dec. 31, 2009, except as to any bonds which have been sold and as to unexpended proceeds in the fund.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 39:1370.1-1370.8)