

First Extraordinary Session, 2005

SENATE BILL NO. 100

BY SENATOR MOUNT

BONDS. Authorizes issuance of bonds and provides for use of bond proceeds to provide relief from natural catastrophes. (2/3 - CA7s6(A)) (gov sig)

1 AN ACT

2 To enact Chapter 10-A of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950,
3 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**
16 **Disaster Assistance Program Act".**

17 **§1370.2. Legislative findings, determinations and intent**

1 A. The legislature hereby finds that Hurricanes Katrina and Rita
2 resulted in natural catastrophes severely impacting the state of Louisiana and
3 the public entities therein. The impact has and continues to restrict the ability
4 of the state and the affected public entities to deliver essential governmental
5 services to the people of the state in the areas of health, education, safety,
6 welfare, comfort and security, and to pay existing debt obligations and
7 operating expenses.

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

13 C. The legislature further finds and determines that the natural
14 catastrophes severely impacted the financial stability of private business entities
15 which provide a tax base and jobs which are imperative to the financial well
16 being of the state and the affected public entities.

17 D. The legislature further determines that:

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

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

23 (3) The issuance of bonds by the state to provide funds to provide relief
24 from the natural catastrophes is essential to protect the credit rating of the state
25 and affected public entities and to provide money for the delivery of essential
26 services to the citizens of the state and affected public entities experiencing
27 significant cash flow difficulties.

28 E. It is hereby determined that the issuance of the bonds and the
29 carrying out of the program described herein is in all respects a public and

1 governmental purpose for the improvement of the health, education, safety,
2 welfare, comfort, and security of the people of the state, that said purposes are
3 public purposes, that the state will be performing an essential governmental
4 function and meeting a public obligation in the exercise of the powers conferred
5 upon it by this Chapter, is a permitted use of the funds and credit of the state,
6 and is a cooperative endeavor for a public purpose of the state and the affected
7 public entities.

8 **§1370.3. Public purpose**

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

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

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

27 (3) To protect the lives, property, health and welfare of citizens of the
28 state by providing essential services such as police and fire protection, trash
29 collection, emergency medical services, and other services related to protecting

1 **and promoting the health, education, safety, welfare, comfort and security of the**
2 **affected communities.**

3 **(4) To improve the financial position of the state and the affected public**
4 **entities resulting in economic and financial benefit to the state and the affected**
5 **public entities.**

6 **(5) To provide for the replacement, improvement or construction of**
7 **essential capital projects of the state or of affected public entities made**
8 **necessary by the natural catastrophe.**

9 **(6) To provide relief from the natural catastrophe.**

10 **§1370.4. Definitions**

11 **As used in this Chapter, the following terms have the following**
12 **meanings, unless the context requires otherwise:**

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

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

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

25 **(4) "Fund" shall mean the "Louisiana Disaster Assistance Program**
26 **Fund".**

27 **(5) "Natural catastrophes" shall mean the consequences of Hurricanes**
28 **Katrina and Rita on the state, affected public entities and business entities and**
29 **the resulting fiscal emergency caused to exist in the state and in the affected**

1 **public entities.**

2 (6) **"OCD" shall mean the office of community development in the**
3 **division of administration.**

4 (7) **"Operating expenses" shall mean:**

5 (a) **Those ordinary operating expenses of the executive, legislative or**
6 **judicial branches of state government, pensions, public schools, public roads,**
7 **public charities, and state institutions; provided that operating expenses shall**
8 **not include the payment of principal, interest, premium, sinking or reserve**
9 **funds or other requirements, costs or expenses related to bonds, notes,**
10 **certificates of indebtedness or other written obligations for the repayment of**
11 **borrowed money of the state.**

12 (b) **Those expenses relating to the performance of local operations**
13 **including police and fire protection, trash collection, revenue collection,**
14 **emergency medical services, and other services related to protecting and**
15 **promoting the health, safety and public welfare of the affected public entity;**
16 **provided that operating expenses shall not include the payment of principal,**
17 **interest, premium, sinking or reserve funds or other requirements, costs or**
18 **expenses related to bonds, notes, certificates of indebtedness or other written**
19 **obligations for the repayment of borrowed money of an affected public entity.**

20 (8) **"Project" shall mean:**

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

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

27 (c) **The payment of the costs of capital projects to replace, improve or**
28 **construct essential capital projects of the state or of the affected public entities**
29 **made necessary by the natural catastrophe.**

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

3 **(e) To provide monies to the Department of Economic Development to**
4 **fund a bridge loan program to fund all or a portion of economic development**
5 **projects which may be necessary in order to successfully secure the creation or**
6 **retention of jobs by a business entity which has been impacted by the natural**
7 **catastrophe under such circumstances as may be determined by the secretary**
8 **of the Department of Economic Development and the governor.**

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

20 **§1370.5. Power to issue bonds**

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

27 **§1370.6. Louisiana Disaster Assistance Program Fund**

28 **A. Proceeds of the bonds shall be deposited in the Louisiana Disaster**
29 **Assistance Program Fund which is hereby established in the state treasury. The**

1 **legislature may appropriate additional monies to the fund. All unexpended and**
2 **unencumbered monies in the fund at the end of the state's fiscal year shall**
3 **remain in the fund. The monies in the fund shall be invested by the state**
4 **treasurer in the same manner as monies in the state general fund, and interest**
5 **earned on the investment of these monies shall be credited to the fund.**

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

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

11 **(2) To the state for expenses of the project as defined in R.S.**
12 **39:1370.4(8)(c) or (d).**

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

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

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

28 **(2) The amount of debt service due and payable on or prior to December**
29 **31, 2007, on bonds, notes, certificates of indebtedness or other written**

1 **obligations for the repayment of borrowed money of the affected public entity.**

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

4 **(4) The displacement of revenue producing businesses.**

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

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

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

8 **(8) The capital projects which were damaged or destroyed in the natural**
9 **catastrophes and the necessity to replace, improve or construct an essential**
10 **capital project.**

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

19 **E. The OCD shall furnish to the Joint Legislative Committee on the**
20 **Budget a report setting forth the names and dollar amounts of loans or grants**
21 **to affected public entities for the previous month.**

22 **§1370.7. Procedure for issuance of bonds, security, interest rates**

23 **A. The bonds authorized to be sold by the State Bond Commission**
24 **pursuant to this Chapter shall be issued and sold in conformity with the**
25 **provisions of Article VII, Section 6 of the Constitution of Louisiana; R.S.**
26 **39:1361 through R.S. 39:1367; R.S. 39:1401 through R.S. 39:1430.1; R.S.**
27 **39:1431 through R.S. 39: 1437; R.S. 39:1441 through R.S. 39:1443; R.S. 39:1444**
28 **through R.S. 39:1456; and any amendments thereto adopted prior to, at the**
29 **same time as, or subsequent to, the effective date of this Act. However, the**

1 provisions of R.S. 39:1365(2), (11), (18) and (25) and R.S. 39:1402(D) and (E)
2 shall not apply to any bonds issued hereunder. Further, the provisions of R.S.
3 39:1365(9) shall not apply to any bonds issued pursuant to this Chapter in the
4 form of variable rate and/or tender option bonds, and the bonds need not be
5 issued in serial form and may mature in such year or years as may be specified
6 by the State Bond Commission. Bonds issued pursuant to the provisions of this
7 Chapter shall not be invalid because of any irregularity or defect in the
8 proceedings or in the issuance thereof and shall be incontestable in the hands
9 of a bona fide purchaser or holder. Should any provision of this Chapter be
10 inconsistent with any provision of the Louisiana Revised Statutes of 1950, the
11 provisions of this Chapter shall govern.

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

27 C. The issuance of bonds for the refunding, readjusting, restructuring,
28 refinancing, extending or unifying the whole or any part of outstanding bonds
29 issued pursuant to the provisions of this Chapter, shall be in furtherance of the

1 **providing of relief from the natural catastrophe and, therefore, may be issued**
 2 **with maturities longer than the refunded bonds and without reference to a**
 3 **lower effective interest rate.**

4 **D. The bonds shall be general obligations of the state of Louisiana, to the**
 5 **payment of which, as to principal, premium, if any, and interest, as and when**
 6 **the same become due, the full faith and credit of the state is hereby irrevocably**
 7 **pledged. These bonds shall be secured by monies in the Bond Security and**
 8 **Redemption Fund and shall be payable on a parity with bonds and other**
 9 **obligations heretofore and hereafter issued which are secured by the Bond**
 10 **Security and Redemption Fund. The maximum interest rate or rates on such**
 11 **bonds, and their maturities, shall be determined by the State Bond Commission.**

12 **§1370.8. Construction of Chapter**

13 **Bonds issued pursuant to the provisions of this Chapter shall not be**
 14 **invalid because of any irregularity or defect in the proceedings or in the**
 15 **issuance thereof and shall be incontestable in the hands of a bona fide purchaser**
 16 **or holder. The provisions of this Chapter shall be liberally construed for the**
 17 **accomplishment of its purposes.**

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

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Linda Nugent.

DIGEST

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 catastrophes by funding the project. Proposed law defines project to mean:

- (a) The payment of principal, interest, premium, sinking or reserve funds or other requirements, costs or expenses 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 an affected public entity.
- (b) The payment of operating expenses of the affected public entity occurring after the natural catastrophe but prior to Dec. 31, 2007.
- (c) 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.
- (d) The payment of operating expenses of the state occurring after the natural catastrophe but prior to June 30, 2007.
- (e) To provide monies to the Department of Economic Development (DED) 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 DED secretary and the governor.

Proposed law defines "public entity" to mean (a) 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, all special service districts including, but not limited to, road, water, sewerage, fire protection, recreation, hospital service, gas utility, and garbage districts; (b) 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 (c) 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 the office of community development, hereinafter "OCD", within the division of administration 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 DED 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 OCD 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 the 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 the governor or lapse of time for gubernatorial action.

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