

Regular Session, 2011

SENATE BILL NO. 253

BY SENATORS JACKSON AND MURRAY

BONDS. Provides relative to the issuance of bonds by public trusts. (8/15/11)

1 AN ACT

2 To amend and reenact R.S. 9:2347(A)(1), (H), and (M), and R.S. 39:1403(A), relative to the
3 issuance of bonds by public trusts; to provide for the publication of the notice of
4 intention to issue bonds, notes, or other evidences of indebtedness by a public trust;
5 to provide for the sale of bonds, notes and other evidences of indebtedness by a
6 public trust; to provide that property owned by certain public trusts authorized to
7 issue bonds to finance projects, is public and used for a public purpose; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:2347(A)(1), (H), and (M) are hereby amended and reenacted to
11 read as follows:

12 §2347. Bonds of public trust

13 A. To provide funds for and to fulfill and achieve its authorized public
14 functions or purposes, a public trust may incur debt and issue bonds, notes or other
15 evidences of indebtedness, hereinafter referred to collectively as "bonds" subject to
16 the following:

17 (1) If the beneficiary of the public trust is a parish, municipality, or a political

1 or governmental subdivision thereof, and such bonds or other debt obligations are
2 issued for the purpose of providing, constructing, expanding, or altering public
3 facilities which are to be operated, maintained, or administered by any such parish,
4 municipality, or political or governmental subdivision thereof, such bonds shall be
5 approved by a vote of a majority of the qualified electors of the beneficiary who vote
6 in a special election held for that purpose in the manner provided by ~~Subtitle H,~~
7 ~~Chapter 4, Part II of Title 39~~ **Chapter 6-A of Title 18 (R.S. 18:1281 et seq.)** of the
8 Louisiana Revised Statutes of 1950. Furthermore, in all other cases, if the beneficiary
9 of the trust is a parish, municipality, or a political or governmental subdivision
10 thereof, all bonds and other debt obligations shall be issued only after the trust has
11 adopted an appropriate resolution giving notice of its intention to issue such bonds
12 or other debt obligations, which resolution shall include a general description of the
13 bonds or other debt obligations to be issued and the security therefor, and notice of
14 this intention shall be published once a week for ~~four~~ **two** weeks in a newspaper in
15 the locality of the beneficiary or in the parish where it is located, the first publication
16 to appear at least thirty days before the public meeting of the trust at which the trust
17 will meet in open and public session to hear any objections to the proposed issuance
18 of such bonds or other debt obligations. The notice of intent so published shall state
19 the date, time, and place of the public hearing and shall state, and the law is hereby
20 declared to be, that if at such hearing a petition duly signed by electors of the
21 beneficiary in a number not less than five per cent of the electors of the beneficiary
22 voting at the last special or general election object to the issuance of the proposed
23 bonds or other debt obligations, then such bonds or other debt obligations shall not
24 be issued until approved by a vote of a majority of the qualified electors of the
25 beneficiary who vote in a special election held for the purpose in the manner
26 provided by ~~Subtitle H, Chapter 4, Part II of Title 39~~ **Chapter 6-A of Title 18 (R.S.**
27 **18:1281 et seq.)** of the Louisiana Revised Statutes of 1950. Any such petition shall
28 be accompanied by a certificate of the parish registrar of voters certifying that the
29 signers of the petition are qualified electors of the beneficiary and the number of

1 signers amounts to not less than five per cent of the electors in said beneficiary in
 2 number, voting at the last special or general election. ~~Prior to the publication of the~~
 3 ~~notice of intention required hereinabove, the contents of said notice of intention shall~~
 4 ~~be approved by the State Bond Commission.~~ All bonds and other debt obligations
 5 issued hereunder for the purpose of providing, developing, securing and improving
 6 the water storage, treatment, supply and distribution services and facilities and
 7 sanitary and storm sewer collection, disposal, treatment and drainage services and
 8 facilities, shall be issued in accordance with the provisions of Subpart B or C, Part
 9 I of Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950, and ~~for~~ any and
 10 all other laws of the state pertaining to revenue bonds for public utilities.

11 * * *

12 H. All bond issues of a public trust shall be submitted to and approved by the
 13 State Bond Commission prior to the issuance and delivery of said bonds. All bonds
 14 of a public trust shall be sold by ~~the State Bond Commission~~ **such public trust**.
 15 Provided, bonds of a public trust issued in connection with any projects or facilities
 16 of the trust for the provisions of industrial, manufacturing, or other economic
 17 development facilities and activities shall be sold in accordance with the provisions
 18 of R.S. 39:991, et seq., subject to the requirement that a notice of intent to sell such
 19 bonds shall be published at least seven days in advance of the sale date. After
 20 approval by the State Bond Commission as required herein and at least seven days
 21 prior to the sale of such bonds ~~by the State Bond Commission~~, the public trust shall
 22 cause to be published a notice of sale in a newspaper of general circulation in the
 23 parish of the beneficiary's situs, or if the state or any state agency be the beneficiary,
 24 such publication shall be in the official state journal, and in a financial journal or
 25 newspaper containing a section devoted to municipal bond news published in either
 26 New Orleans, Louisiana, or New York, New York. This notice of sale shall state if
 27 any proposals have been made for the purchase of the bonds and that other proposals
 28 will be considered and that the proposal most advantageous to the issuer will be
 29 accepted at the time of the sale. After adoption of the resolution or other proceedings

1 authorizing the sale of bonds, ~~said~~ **the** resolution or other proceedings shall be
2 published in a newspaper of general circulation in the parish of the beneficiary's
3 situs, or, if the state or any state agency be the beneficiary, such publication shall be
4 in the official state journal. For a period of thirty days from the date of publication
5 of the notice of sale, any person or persons in interest shall have the right to contest
6 the legality of the notice of sale, resolution or other proceedings authorizing the
7 issuance of the bonds and the legality of the bond issue for any cause, after which
8 time no one shall have any cause or right of action to contest the legality of said
9 resolution or other proceedings or of the bonds authorized thereby for any cause
10 whatsoever. If no suit, action or proceedings are begun contesting the validity of the
11 bonds within the thirty days herein prescribed, the authority to issue the bonds and
12 to provide for the payment thereof, the legality thereof and of all of the provisions
13 of the resolution or other proceedings authorizing the issuance of the bonds shall be
14 conclusively presumed, and no court shall have authority to inquire into such
15 matters. Such bonds shall have all the qualities of negotiable instruments under the
16 law merchant and the commercial laws of the state of Louisiana.

17 * * *

18 M. The property of any public trust, having as its beneficiary ~~the a~~ **a** parish,
19 **municipality, or a political or governmental subdivision thereof** ~~of Jefferson,~~
20 which is authorized under its trust indenture to engage in or issue bonds to finance
21 projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1),
22 acquired or held for one or more of said purposes, is hereby declared to be public
23 property used for essential public and governmental purposes. Accordingly, such
24 public trust, and all of its properties at any time owned by it and the income
25 therefrom and all bonds issued by it and the income therefrom, shall be exempt from
26 all taxes of the parish or municipality, the state, or any political subdivision thereof
27 or any other taxing body, provided, however, that such public trust may require the
28 lessee of each of the projects of the public trust to pay annually to parish or
29 municipal taxing authorities or to any other taxing body, through the normal

1 collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities
 2 for any services rendered by them to such projects, which sum shall not be in excess
 3 of the ad valorem taxes such lessee would have been obligated to pay to such
 4 authorities had it been the owner of such project during the period for which such
 5 payment is made. Such payments to be made in lieu of taxes together with any fees
 6 and charges of such public trust, to the extent in the aggregate they do not exceed the
 7 amount of taxes that would be paid if the lessee were the owner, shall constitute
 8 statutory impositions within the meaning of R.S. 47:2128. No provision of this
 9 Subsection shall become effective until approved by resolution of the ~~Jefferson~~
 10 ~~Parish Council~~ **parish, municipality, or a political or governmental subdivision**
 11 **thereof which is the beneficiary of such public trust.**

12 Section 2. R.S. 39:1403(A) is hereby amended and reenacted to read as follows:

13 §1403. All other state bonds

14 A. All other bonds, of whatever type, of the state of Louisiana and its boards,
 15 departments, commissions, authorities, and agencies (except the following which are
 16 excluded from the operation of this Chapter: municipalities, parishes, parish and
 17 municipal school boards and districts, levee boards and districts, housing authorities,
 18 community improvement agencies, redevelopment agencies, **public trusts**, political
 19 subdivisions and units of local government created by or governed by the governing
 20 authorities of parishes or municipalities, and any drainage or special service districts,
 21 such as water, sewerage, garbage and lighting districts created by or pursuant to
 22 legislative acts) shall be sold by the State Bond Commission.

23 * * *

The original instrument was prepared by Martha Hess. The following digest,
 which does not constitute a part of the legislative instrument, was prepared
 by Linda Nugent.

DIGEST

Jackson (SB 253)

Present law provides for the creation of public trusts to issue obligations and to provide funds for the furtherance and accomplishment of any authorized public function or purpose of the state or of any parish, municipality, political or governmental subdivision, or any other governmental unit in the state in real or personal property.

Proposed law retains present law.

Present law provides that a public trust may incur debt and issue bonds, notes, or other evidences of indebtedness to provide funds to fulfill and achieve its authorized public functions or purposes, and provides that if the beneficiary of the public trust is a parish, municipality, or a political or governmental subdivision thereof, all bonds or other debt obligations shall only be issued after the public trust has adopted a resolution giving notice of its intention to issue such bonds, and notice of this intention shall be published once a week for four weeks in a newspaper in the locality of the beneficiary or in the parish where it is located, with the first publication to appear at least 30 days before the public meeting of the trust to hear any objections to the proposed issuance of the bonds.

Proposed law retains present law except that proposed law reduces the required publication from once a week for four weeks to once a week for two weeks.

Present law provides for the electorate to approve the issuance of bond issues of certain public trusts in certain circumstances. Proposed law makes technical change to update citations for the procedure for bond elections from Subtitle II, Chapter 4, Part II of Title 39 of the La. Revised Statutes of 1950 to Chapter 6-A of Title 17 of the La. Revised Statutes of 1950.

Present law requires that prior to the publication of the required notice of intention, the contents of said notice of intention shall be approved by the State Bond Commission. Proposed law deletes present law.

Present law requires that all bond issues of a public trust shall be submitted to and approved by the State Bond Commission prior to the issuance and sale of the bonds by the State Bond Commission.

Proposed law retains present law requirement that all bond issues of a public trust be submitted to and approved by the State Bond Commission prior to the issuance and sale of the bonds, but proposed law changes the seller of the bonds from the State Bond Commission to the public trust.

Present law provides that the property of a public trust having Jefferson Parish as its beneficiary which is authorized under its trust indenture to engage in or issue bonds to finance projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1), which is acquired or held for one or more of said purposes, is public property used for essential public and governmental purposes. Provides that, accordingly, such public trust, its properties and income, and bonds it issues and income from such bonds are exempt from all taxes of the parish or municipality, the state, or any political subdivision thereof or any other taxing body. Present law further provides that such public trust may require the lessee of each of the projects of the public trust to pay annually to parish or municipal taxing authorities or to any other taxing body, through the normal collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities for any services rendered by them to such projects. Further provides that new law shall not become effective until approved by a resolution of the Jefferson Parish Council.

Proposed law retains present law but deletes references to Jefferson Parish and makes present law applicable to any public trust, having as its beneficiary a parish, municipality, or a political or governmental subdivision thereof.

Present law provides for bonds sold by the State Bond Commission for the state and its boards, departments, commissions, authorities and agencies and provides for certain exclusions from present law. Proposed law adds "public trusts" to the excluded entities.

Effective on August 15, 2011.

(Amends R.S. 9:2347(A)(1), (H) and (M) and R.S. 39:1403(A))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Adds "public trusts" to the exclusions from present law on state bonds in the public finance provisions in Title 39 of the La. Revised Statutes.