

Regular Session, 2014

ACT No. 543

HOUSE BILL NO. 1271 (Substitute for House Bill No. 941 by Representative Leger)

BY REPRESENTATIVE LEGER

1 AN ACT

2 To enact R.S. 17:100.11, relative to public school facilities in certain public school districts;

3 to provide relative to the allocation and dedication of certain local tax revenues to

4 the replacement, repair, and improvement of such facilities; to provide for powers,

5 duties, and responsibilities of the school boards of affected school districts,

6 individual schools, and the Recovery School District with respect to such facilities

7 and funds; to require the establishment of certain offices and accounts; to establish

8 procedures governing the allocation and use of funds; to provide with respect to the

9 allocation of funds to charter schools in the district and to the duties and

10 responsibilities of the school board and the Recovery School District with respect to

11 public facilities occupied or used by charter schools; to provide for fees and charges;

12 to provide relative to outstanding obligations of school boards and future obligations;

13 and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 17:100.11 is hereby enacted to read as follows:

16 §100.11. School facilities preservation; certain districts

17 A.(1) There is hereby established for each school district as defined in

18 Subsection H of this Section a school facilities preservation program. The program

19 shall be funded, structured, and operated as provided in this Section.

20 (2) Proceeds of the following taxes, hereafter referred to in this Section as

21 "facility funds", shall be used to fund the school facilities preservation program:

22 (a) The proceeds of local sales taxes at a rate equivalent to the rate being

23 used as of July 1, 2014, by the school board to pay school facility debt.

1 **(b) The proceeds from property taxes dedicated to capital outlay and**
2 **authorized by voters after July 1, 2014, to support the purposes of this Section.**

3 **(3) The proceeds of property taxes dedicated by voters for payment of bonds**
4 **held by the school board and in existence as of July 1, 2014, shall not be considered**
5 **and not otherwise administered as facility funds under the provisions of this Section.**
6 **Additionally, the school board shall not refinance bonds that are outstanding on July**
7 **1, 2014, nor shall it take any action that would delay the retirement of such bonds.**
8 **It is the intention of this Paragraph that such bonds be paid in full no later than the**
9 **dates specified by the payment schedule in existence on July 1, 2014.**

10 **B. Each year, the school board shall transfer to the Recovery School District**
11 **a proportion of facility funds equal to the proportion of students attending school on**
12 **campuses that are in the school district and that are controlled by the Recovery**
13 **School District to the total number of students attending school on campuses that are**
14 **in the school district and that are controlled by either the school board or the**
15 **Recovery School District, based on the February first total student enrollment counts.**
16 **The amounts, by source, of facility funds, the amount retained by the school board,**
17 **the amount transferred to the Recovery School District, and the per campus student**
18 **counts used in calculations pursuant to this Subsection shall be included as a**
19 **schedule to the annual financial statements of the school board, audited by its**
20 **certified public accountant, and submitted to the state Department of Education, all**
21 **in a manner substantially similar to that provided in R.S. 17:1990(C)(2)(a)(iii)(dd).**

22 **C.(1) The school board and the Recovery School District shall each create**
23 **a facilities office. From annual facility funds each receives, it shall use fifteen**
24 **dollars per pupil attending school at a campus it controls in the school district or**
25 **whatever lesser amount is available to fund the facilities office. The school board**
26 **and the Recovery School District may adjust this per pupil amount on an annual**
27 **basis by the lesser of the most recent annual increase in the Consumer Price Index**
28 **published by the United States Department of Labor or in the minimum foundation**
29 **program funds.**

1 (2) To the extent that facility funds are available pursuant to Paragraph (1)
2 of this Subsection, the facilities office shall perform the following functions:

3 (a) Inspect and monitor facilities to ensure that they are being maintained
4 and that each campus is in compliance with maintenance and inspection
5 requirements. If a school is not properly maintaining its campus as required in the
6 lease agreement, the remedies available to the school board or Recovery School
7 District as applicable are to suspend or terminate use of the school facility account
8 funds as provided in Paragraph (F)(10) of this Section or to perform necessary
9 maintenance, repair, or replacement work and charge the school the costs of such
10 work plus a service fee. Prior to performing any such work, the school board or
11 Recovery School District shall give formal notice to the school and provide an
12 opportunity for it to remedy the deficiency, all in accordance with policies governing
13 such procedures.

14 (b) Manage building leases, handle emergency repairs, and administer the
15 revolving facility loan fund and school facility repair and replacement accounts, all
16 as provided for by this Section.

17 (3) The facilities office may provide additional facility services to charter
18 schools, including emergency and capital repairs or replacements, procurement
19 services, and technical assistance, and charge fees for such services pursuant to a
20 written agreement with the school.

21 D. Until all bonds referenced in Paragraph (A)(3) of this Section are retired,
22 the school board and the Recovery School District shall use facility funds remaining
23 after the allocation provided for in Subsection C of this Section for emergency
24 repairs and replacements in accordance with policies each adopts for such purpose.
25 In the school year following the retirement of such bonds, the school board and the
26 Recovery School District shall transfer unused funds received pursuant to this
27 Subsection to its respective revolving loan fund, as is provided for in Subsection E
28 of this Section.

29 E.(1) The school board and the Recovery School District shall each establish
30 a revolving loan fund and make loans from the fund to schools that are in campuses

1 controlled by each respectively and that are in the school district to finance
2 emergency or planned capital repairs and replacements, all in accordance with this
3 Subsection.

4 (2) Beginning with the year following the retirement of bonds referenced in
5 Paragraph (A)(3) of this Section and continuing for twenty years, the school board
6 and the Recovery School District shall annually deposit facility funds available, after
7 funds are allocated to the facilities office as provided in Subsection C of this Section
8 and in the amount established by this Paragraph or whatever lesser amount is
9 available, into its respective revolving loan fund. The annual amount to be deposited
10 by the school board or the Recovery School District shall be the sum of all per
11 campus contributions. A per campus contribution shall be one hundred fifty dollars
12 per student attending school at that campus or seventeen percent of the per-campus
13 share of facility funds, whichever is greater, if the school is in a facility that was
14 constructed prior to September 1, 2005, and that has not received a renovation
15 exceeding half the value of the facility's replacement cost since that date, or three
16 hundred dollars per student attending school at that campus or thirty-five percent of
17 the per-campus share of facility funds, whichever is greater, for all other schools.
18 The "replacement cost" of a facility that was constructed prior to September 1, 2005,
19 means the replacement cost of the facility as of July 1, 2014.

20 (3) The school board and the Recovery School District shall each establish
21 policies governing the following: eligible repairs and replacements, how schools are
22 to handle emergency repairs, approval of loan applications, maintenance of a
23 minimum balance in the loan fund, priorities for granting loans, and any other aspect
24 of administering the loan fund and loans made from it.

25 (4) A school shall be eligible for a loan only if the balance in its school
26 facility account is below seventy-five thousand dollars. However, if a school will
27 use funds from the school facility account to fund a portion of a repair or
28 replacement project, it may receive a loan for that project if its budgeted
29 expenditures for the project will result in a balance in its school facility account
30 below seventy-five thousand dollars.

1 (5) A loan application from a charter school shall be approved by the charter
2 school's board prior to submission to the school board or the Recovery School
3 District, whichever entity controls the campus, for approval.

4 (6) Loans shall be interest-free; however, the school board and the Recovery
5 School District may charge a loan origination fee not exceeding five percent of the
6 value of the loan or thirty thousand dollars per loan, whichever is less.

7 (7) Schools shall repay loans in accordance with the terms of the loan
8 agreement from funds to be deposited to its school facility account, as provided for
9 in Subsection F of this Section.

10 (8) No school may use proceeds of a loan for operating expenses,
11 maintenance, or insurance costs.

12 (9) If a school vacates a campus for which a loan is outstanding and another
13 school becomes the tenant in that campus, the new school shall assume the debt.

14 F.(1) The operator of each school in the school district shall establish and
15 maintain a school facility repair and replacement account for each campus; such
16 accounts are referred to in this Section as "school facility accounts".

17 (2) Beginning with the year following the retirement of all bonds referenced
18 in Paragraph (A)(3) of this Section, the school board and the Recovery School
19 District shall annually deposit into each school facility account the per-campus share
20 of facility funds less any portion of such funds deposited, in accordance with
21 Subsection E of this Section, into the revolving loan fund.

22 (3) Except as provided in Paragraph (9) of this Subsection, the school facility
23 accounts shall be segregated, and funds therein shall not be commingled with other
24 school funds. Funds in such an account shall be used only for the benefit of the
25 campus for which it was established. The school board and Recovery School District
26 shall each adopt investment policies governing school facility accounts. The
27 provisions of R.S. 33:2955 and R.S. 49:321 are applicable to such accounts.
28 Investment and interest earnings generated on funds in a school facility account shall
29 be credited to the account and shall not be transferred to another account or used for
30 purposes other than those allowable for funds in the school facility account. A

1 school facility account shall be audited annually in accordance with monitoring
2 policies developed by the school board and the Recovery School District, which shall
3 include verification that the proper amounts were deposited into the school facility
4 account and invested and used according to law and policy.

5 (4) The funds in the school facility account may be used only for emergency
6 or planned capital repairs and replacements as outlined in law and in policies
7 developed by the school board and the Recovery School District.

8 (5) Each school shall develop, for each campus, a long-term capital plan that
9 meets minimum requirements established by the school board or Recovery School
10 District as applicable. Such plans shall include but need not be limited to identifying
11 key building components and when they will likely need to be repaired or replaced
12 and the estimated cost of doing so.

13 (6) Nonemergency expenditures from the school facility account shall be
14 approved in advance by the charter school's board if the school is a charter school,
15 and the school board or Recovery School District, as applicable, and shall reflect the
16 appropriate priorities as reflected in the school's long-term capital plan developed
17 pursuant to Paragraph (5) of this Subsection.

18 (7) The school board and the Recovery School District shall each develop
19 policies defining an emergency and the protocol a school must follow in expending
20 funds in the school facility account for emergency repairs.

21 (8) A school shall comply with all applicable school board or Recovery
22 School District policies regarding projects funded through its school facility account
23 including but not limited to disadvantaged business enterprises policies.

24 (9) A charter operator may make a loan to a school facility account. The
25 loan shall be made only from excess fund balances or other funds not designated for
26 instructional purposes from the school holding the school facility account or another
27 school under the same operator. All such loans shall be interest-free. If the school
28 tenant of a campus with an outstanding loan to the school facility account changes,
29 the new school tenant must pay back the loan under the same terms as the prior
30 tenant. If a school is lending money to the school facility account, the loan can be

1 repaid with funds from the school facility account, just as if the school had borrowed
 2 money from the revolving loan fund, as provided for in Subsection E of this Section.

3 (10) If a school does not follow the legal and policy requirements for the
 4 school facility account, the remedy available to the school board or Recovery School
 5 District as applicable is to suspend or terminate a school's authority to use and
 6 control the funds in the school facility account. Prior to any such action, the school
 7 board or Recovery School District shall give formal notice to the school and provide
 8 an opportunity for it to remedy the deficiency, all in accordance with policies
 9 governing such procedures.

10 (11) Funds in a school facility account are the property of the school board
 11 or the Recovery School District, whichever entity controls the campus. A school
 12 facility account is campus-specific and remains with the campus should the school
 13 tenant of the campus change or should the school tenant no longer occupy the
 14 campus.

15 G.(1) Neither the school board nor the Recovery School District shall charge
 16 rent or any other fee to a charter school in the school district for the occupancy, use,
 17 or repair of a campus it controls other than as authorized by this Section. The
 18 Recovery School District or the school board may, however, require a charter school
 19 to pay for maintenance, insurance, utilities, and other costs related to the operation
 20 and upkeep of a campus, as outlined in the lease agreement for occupancy of the
 21 campus. Except as provided in this Paragraph, this Section does not authorize a
 22 school board or the Recovery School District to require a charter school to expend
 23 funds on emergency or planned capital repairs or replacements in excess of funds
 24 available for such purposes pursuant to this Section.

25 (2) The school board and the Recovery School District shall annually prepare
 26 and issue a public report that includes all of the following: the amount of funds in
 27 its respective revolving facility loan fund and all loans made therefrom, the amount
 28 of facility funds distributed to each campus by the Recovery School District or the
 29 school board, the amount allocated to fund the respective facility office of each, and
 30 the cost and type of each emergency repair made by the facilities office if applicable.

1 The Recovery School District shall submit its report to the State Board of
2 Elementary and Secondary Education.

3 (3) This Section shall not be construed as a limitation on any authority or
4 responsibility of a school board to seek or to expend funds on facility repairs,
5 replacements, and improvements as otherwise provided by law including but not
6 limited to the provisions of R.S. 17:59, 17:81, and 17:98.

7 H. For purposes of this Section, the following terms shall have the meaning
8 ascribed:

9 (1) "Campus" means a school building owned by the school board and
10 controlled by either the school board or the Recovery School District and all
11 facilities otherwise part of the school, recognized as part of the facilities, and
12 typically available to the school, its students, faculty, and staff. A single campus
13 may include more than one neighboring school building. Generally, a single campus
14 includes all facilities sharing a single legal address. In some cases, more than one
15 school may occupy a single campus, and in other cases, a single school may occupy
16 more than one campus.

17 (2) "Per campus share of facility funds" means an amount calculated
18 annually by dividing the annual amount of facility funds of the school board or
19 Recovery School District, less amounts allocated to the respective facilities office,
20 by the total number of students attending school on campuses controlled by the
21 school board or the Recovery School District as applicable multiplied by the number
22 of students attending school at the particular campus as of the most recent February
23 first total student enrollment counts.

24 (3) "School" means any public school with a unique site code assigned by
25 the department.

26 (4) "School board" means the elected school board that governs schools in
27 a school district.

28 (5) "School district" means all schools within the geographic jurisdiction of
29 a local school board within which schools have been transferred to the Recovery
30 School District pursuant to R.S. 17:10.7.

1 Section 2. This Act shall become effective on July 1, 2014; if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on July 1,
3 2014, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____