

2017 Regular Session

SENATE BILL NO. 251

BY SENATOR LAFLEUR

BONDS. Authorizes the securitization of the economic damage portion of the Deepwater Horizon income stream. (gov sig)

AN ACT

To amend and reenact R.S. 39:91 and to enact Subpart F-2 of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:99.51 through 99.69, relative to the issuance of bonds to securitize the state's allocation of the economic damage settlement of the Deepwater Horizon oil spill economic damage litigation; to create the Louisiana Economic Financing Corporation; to provide for the qualifications of the members of the Louisiana Economic Financing Corporation; to provide for the authority of the Louisiana Economic Financing Corporation to issue bonds; to provide for the sale of certain assets of the state to the Louisiana Economic Financing Corporation; to provide for the deposit of the proceeds of the sale into the Deepwater Horizon Economic Damages Collection Fund; to authorize the financing, purchase, ownership, and management of payments from the Deepwater Horizon economic damage settlement; to provide for the security for the payment of the bonds; to provide for bond validation actions; to provide for tax exemptions; to provide for ancillary contracts and derivative instruments; to provide for an effective date; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 39:91 is hereby amended and reenacted and Subpart F-2 of Part II-A
3 of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised
4 of R.S. 39:99.51 through 99.69, is hereby enacted to read as follows:

5 §91. Deepwater Horizon Economic Damages Collection Fund

6 A.

7 * * *

8 B. All economic damages proceeds from the DWH litigation in excess of the
9 first two hundred million dollars deposited in the Fiscal Year 2015-2016 Deficit
10 Elimination Fund, **and in such amounts as remain after payment of the amounts**
11 **due on bonds, refunding bonds, or related expenses which are secured by the**
12 **state allocation as provided in the documents pursuant to which the bonds were**
13 **issued under the provisions of Subpart F-2 of this Part,** shall be deposited by the
14 treasurer as follows:

15 * * *

16 E. This Subpart shall be null, void, and of no effect at the later of the
17 conclusion of the DWH litigation, ~~or~~ **July 1, 2024, or at such time as all**
18 **outstanding bonds issued pursuant to Subpart F-2 of this Part, or any refunding**
19 **bonds issued pursuant to the provisions of Chapter 14-A or 15 of Title 39 of the**
20 **Louisiana Revised Statutes of 1950 or other indebtedness issued for the**
21 **purposes enumerated in this Section and payable from the sale of all or a**
22 **portion of the state's recovery of economic damages as a result of the settlement**
23 **of the Deepwater Horizon economic damage litigation as provided in Subpart**
24 **F-2 of this Part, have been paid in full as to principal and interest.**

25 * * *

26 **SUBPART F-2. LOUISIANA ECONOMIC**

27 **SETTLEMENT FINANCING CORPORATION**

28 **§99.51. Title**

29 **This Subpart shall be known and may be cited as the "Louisiana**

1 Economic Settlement Financing Corporation Act".

2 §99.52. Definitions

3 As used in this Subpart:

4 (1) "Agreement" means the agreement or agreements, as authorized
5 under this Subpart, between the state of Louisiana, as the seller, and the
6 corporation, as the purchaser, of the DWH economic damage assets. The sale
7 by the state of the DWH economic damage assets pursuant to any such
8 agreement shall be a true sale and absolute transfer and not a borrowing, nor
9 a pledge or other security interest for any borrowing.

10 (2) "Ancillary contracts" means the contracts described in R.S. 39:99.65.

11 (3) "Board" means the board of the corporation.

12 (4) "Bonds" means the DWH economic damage revenue bonds and
13 refunding bonds, notes and other evidences of indebtedness issued by the
14 corporation pursuant to this Subpart.

15 (5) "Closing date" means the date of delivery of the first issue of DWH
16 economic damage revenue bonds.

17 (6) "Corporation" means the Louisiana Economic Financing
18 Corporation created pursuant to this Subpart.

19 (7) "Derivative instrument" means a contract whose value is based on
20 the performance of an underlying financial asset, index, or other investment.
21 Derivative instruments include, but are not limited to, interest rate swaps, and
22 hedge instruments.

23 (8) "DWH" means the April 20, 2010, Deepwater Horizon oil spill in the
24 Gulf of Mexico which caused economic damage to the state.

25 (9) "Economic damage revenue" means the state allocation of the
26 revenues received in settlement of the economic damage claims of the state
27 against BP Exploration and Production, Inc., and any of its corporate affiliates,
28 arising out of the Deepwater Horizon oil spill in the Gulf of Mexico. Economic
29 damage revenues do not include amounts received by the state from or through

1 natural resource damage assessment (NRDA) claims, the Resources and
2 Ecosystems Sustainability, Tourist Opportunities and Revived Economies of the
3 Gulf State Act of 2012 (RESTORE Act), or claims otherwise restricted by
4 federal law or court order.

5 (10) "Economic damage revenue assets" means all right, title and
6 interest in and to the portion of the state allocation that may be sold to the
7 corporation from time to time.

8 (11) "Economic damage revenue bonds" means the bonds, notes, and
9 other obligations issued by the corporation, exclusive of bonds that the
10 corporation may issue to refund bonds, the net proceeds, after financing costs,
11 of the first issue of which shall be used by the corporation to pay a portion of the
12 purchase price to the state of Louisiana to purchase the economic damage
13 revenue assets.

14 (12) "Economic damage revenue payments" means the monies paid or
15 payable to the corporation pursuant to the agreement as in effect from time to
16 time.

17 (13) "Financing costs" means all capitalized interest, costs, fees, reserves,
18 and credit and liquidity enhancements as the corporation determines to be
19 desirable in issuing, securing, and marketing the bonds.

20 (14) "Holders" and similar terms refer to the owners of the bonds.
21 References to covenants and contracts with such holders, and to their rights and
22 remedies, shall, if so provided by the corporation, extend to the parties to
23 derivative instruments and ancillary contracts.

24 (15) "Income" means the Deepwater Horizon economic damage revenue
25 payments as set forth in the consent decree and all fees, charges, payments, and
26 other income and receipts paid or payable to the corporation or a trustee or
27 other party for the account of the corporation or the holders.

28 (16) "Indenture trustee" means the trust company or bank at the time
29 servicing as trustee under the trust indenture referred to in R.S. 39:99.64.

1 **(17) "Outstanding", when used with respect to bonds, shall exclude**
2 **bonds that shall have been paid in full at maturity, or shall have otherwise been**
3 **refunded, redeemed, defeased or discharged, or that may be deemed not**
4 **outstanding pursuant to agreements with the holders thereof.**

5 **(18) "Residual interests" means the income of the corporation, and bond**
6 **proceeds, if any, not previously paid to the state, that are in excess of the**
7 **corporation's requirements to pay its operating expenses, debt service, sinking**
8 **fund and other redemption requirements, reserve fund requirements, and any**
9 **other contractual obligations to the holders or that may be incurred in**
10 **connection with the issuance or repayment of the bonds, the amounts of which**
11 **shall be determined by the board on or before January first and July first of**
12 **each year for the next twelve months, and which, within ten days after each**
13 **such determination, shall be transferred and paid by the corporation to the state**
14 **treasurer for deposit in and credit to the Deepwater Horizon Economic**
15 **Damages Collection Fund pursuant to the agreement between the state and the**
16 **corporation.**

17 **(19) "State allocation" means all economic damages to be received by the**
18 **state of Louisiana beginning in 2009 and ending in 2033 as a result of the**
19 **Deepwater Horizon economic damage consent decree, including all of the state**
20 **of Louisiana's allocable share as determined thereunder, without giving effect**
21 **to any sale of any portion thereof.**

22 **(20) "Consent decree" means the settlement agreement and related**
23 **documents between the state of Louisiana, other gulf states, local governments,**
24 **and BP Exploration & Production, Inc. settling the claims of economic damage,**
25 **which consent decree was approved by the United States District Court for the**
26 **Eastern District of Louisiana on April 4, 2016.**

27 **§99.53. Corporation created; domicile; fiscal year**

28 **The corporation is created as a special purpose, public corporate entity,**
29 **an instrumentality independent of the state. The corporation shall be a public**

1 corporate body, intended, created, and empowered to effectuate only the
2 purposes set forth in this Subpart, and shall have a legal existence, separate and
3 distinct from the state of Louisiana. The domicile of the corporation shall be
4 East Baton Rouge Parish. The corporation shall operate on a fiscal year basis
5 commencing on July first and ending on June thirtieth of each year.

6 §99.54. Governing board; membership; terms; compensation and expenses;
7 chairman and vice chairman; quorum; employees; agents;
8 limitation of liability

9 A. The board of the corporation shall exercise all powers, rights, and
10 duties conferred by this Subpart or other provisions of law upon the
11 corporation. The board shall consist of the governor, the state treasurer, the
12 attorney general, the president of the Senate, the speaker of the House of
13 Representatives, or their designees, and seven members appointed by the
14 governor with one member appointed from each congressional district and the
15 remaining member or members appointed from the state at large. The members
16 of the board who are appointed by the governor shall represent the state's
17 diverse population as near as practicable, and shall have a background and
18 significant experience in financial management and investments. The members
19 of the board appointed by the governor shall be subject to Senate confirmation
20 and shall serve at the pleasure of the governor for terms of four years each, or
21 until their successors shall have been appointed and qualified, as designated by
22 the governor. Any appointment to fill a vacancy on the board shall be made for
23 the unexpired term of the member whose death, resignation, or removal created
24 such vacancy. Members on the board may be appointed to an additional term.

25 B. The members of the board shall not receive compensation by reason
26 of their membership on the board or attendance at the meetings thereof. The
27 appointed members of the board shall receive a per diem allowance to be
28 established by the board in an amount not to exceed the amount of per diem
29 authorized for members of the legislature for attendance at meetings of the

1 corporation or committees thereof or for other official duties of the corporation
2 or board, and all members may be reimbursed for travel expenses incurred in
3 the performance of their official duties. The travel expense reimbursement shall
4 be fixed by the corporation in an amount not to exceed those authorized under
5 state travel regulations.

6 C. The members of the board shall annually elect a chairperson and vice
7 chairperson, and, except for secretary-treasurer of the board, such other
8 officers as the members determine necessary. The state treasurer shall serve as
9 secretary-treasurer of the corporation and board. The chairperson shall sign
10 and execute all vouchers and other orders for the disbursement of funds
11 belonging to the corporation upon authorization by the board. The vice
12 chairperson shall exercise the powers of the chairperson when so directed by the
13 chairperson or when the chairperson is absent. Seven members of the board
14 shall constitute a quorum for the transaction of all business of the corporation.
15 Meetings of the board shall be held at a time and place as determined by and at
16 the call of the chairperson or when requested by a majority of the members,
17 provided that the board shall meet no less than annually.

18 D. The board may delegate its powers to its chairperson, the
19 secretary-treasurer, officers of the corporation or committees of the board, with
20 such standards for the exercise of delegated powers as the board may specify,
21 and may, to the extent not inconsistent with the rights of the holders, revoke any
22 such delegation.

23 E. Members of the board and persons acting on the corporation's behalf,
24 while acting within the scope of their duties or employment, shall not be subject
25 to any personal liability resulting from carrying out the powers and duties
26 conferred on them pursuant to this Subpart, and shall have the indemnification
27 rights provided in R.S. 13:5108.1 with respect to such actions.

28 §99.55. Purposes and powers

29 A. The corporation's purposes are, and it shall have the authority and

1 powers, to carry out the financing, purchasing, owning and managing of the
2 economic damage revenues and the economic damage revenue assets, the
3 corporation being vested, subject to R.S. 39:99.59 and the other provisions
4 hereof, with all the powers of a private corporation to effectuate the purposes
5 of the corporation including, without limitation, the power to sue and be sued,
6 to make contracts, to adopt and use a corporate seal and to alter same, and is
7 further particularly authorized and empowered to:

8 (1) Purchase the economic damage revenue assets and receive, or
9 authorize the indenture trustee to receive, as the same shall become due, the
10 economic damage revenue payments.

11 (2) Adopt, or alter, or repeal any bylaws, rules or regulations as the
12 board may deem necessary.

13 (3) Issue bonds as authorized by this Subpart and refund any of such
14 bonds.

15 (4) Commence and prosecute any action or other proceeding to protect
16 or enforce any right conferred upon it by any law, contract or other agreement.

17 (5) Pay its operating expenses.

18 (6) Determine the amounts of the residual interests, and pay and transfer
19 such residual interests to the state treasurer, semi-annually, in accordance with
20 the provisions of this Subpart.

21 (7) Enter into such agreements with such parties as the corporation may
22 deem necessary to effectuate the prompt and orderly transfer of the state of
23 Louisiana's allocation and for such other purposes that the corporation shall
24 deem advisable.

25 (8) Do any and all other acts and things necessary, convenient,
26 appropriate or incidental in carrying out the provisions of this Subpart.

27 B. The corporation is further authorized and empowered to incur
28 obligations to pay its operating expenses in such form as may be authorized by
29 the corporation. This Subpart shall govern the issuance of such obligations

1 insofar as the same may be applicable.

2 C. The corporation shall prepare an operating budget annually which
3 shall be submitted for approval to the State Bond Commission and the Joint
4 Legislative Committee on the Budget.

5 D. The corporation shall prepare and submit an annual report to the
6 governor, the State Bond Commission, the Senate committees on finance and
7 health and welfare, and the House of Representatives committees on
8 appropriations and health and welfare on or before March first of each year.
9 The annual report shall contain, among other appropriate matters, the annual
10 operating and financial statements of the corporation for the fiscal year ending
11 the preceding June thirtieth.

12 E. Any funds held by the corporation or by the indenture trustee may be
13 invested and reinvested in investments and securities that are legal investments
14 under the laws of the state of Louisiana for funds of the state, funds of the
15 political subdivisions of the state, or tax exempt bonds as defined in R.S.
16 49:342(C).

17 §99.56. Corporate existence; dissolution

18 The corporation shall have perpetual existence; provided, however, the
19 board shall dissolve and terminate the existence of the corporation no later than
20 two years after the date of final payment of all outstanding bonds and the
21 payment or satisfaction of all other outstanding obligations and liabilities of the
22 corporation, except to the extent necessary to remain in existence, and only for
23 such additional time, as shall be necessary to fulfill any outstanding covenants
24 or agreements with holders or other parties made in accordance with the
25 provisions of this Subpart. Upon dissolution of the corporation, title to all assets
26 and properties of the corporation shall vest in and become the property of the
27 state of Louisiana and shall be deposited in and credited to the Deepwater
28 Horizon Economic Damages Collection Fund, and the corporation shall execute
29 all necessary conveyances, assignments or other documents to establish and

1 evidence such transfer and ownership, including all conveyances or assignments
2 of all rights, title and interest to the economic damage revenues.

3 §99.57. Staff; counsel; assistance by state officers, departments and agencies;
4 auditors; consultants

5 A. The staff of the Department of Treasury, including that of the State
6 Bond Commission, may, pursuant to a cooperative endeavor agreement, serve
7 as staff to the corporation under the supervision of the state treasurer.

8 B. The attorney general shall, pursuant to a cooperative endeavor
9 agreement, serve as counsel to the corporation, and subject to approval of the
10 State Bond Commission and the attorney general, the corporation may employ
11 or retain such other attorneys as it may deem necessary and fix their
12 compensation.

13 C. State officers, departments, and agencies may render support and
14 services to the corporation within their respective functions, as requested by the
15 corporation.

16 D. The books and accounts of the corporation shall be subject to audit
17 not less than annually by the legislative auditor in accordance with R.S. 24:513.
18 The corporation shall submit to the governor, the attorney general, and the
19 Legislative Audit Advisory Council, within thirty days of its receipt, a copy of
20 every final external audit of the books and accounts of the corporation, other
21 than copies of the reports of examinations of the legislative auditor.

22 E. The corporation may employ or retain such professionals, consultants,
23 agents, financial advisers, and accountants as it may deem necessary to carry
24 out its duties under this Subpart and, the provisions of any other law to the
25 contrary notwithstanding, may determine their duties and compensation subject
26 only to the approval of the State Bond Commission.

27 F. The corporation shall be subject to the Code of Governmental Ethics
28 (R.S. 42:1101, et seq.), the Open Meetings Law (R.S. 42:11, et seq.), the Public
29 Records Law (R.S. 44:1, et seq.), and the Bond Validation Procedures Law (R.S.

1 13:5121, et seq.).

2 §99.58. Exemption from taxation

3 The exercise of the powers and authorities granted by this Subpart shall
4 be in all respects for the benefit of the citizens of the state of Louisiana and for
5 the promotion of their welfare, convenience, and prosperity. Property of the
6 corporation, whether immovable, personal, tangible or intangible, and the
7 income, earnings, and operations of the corporation, shall be exempt from all
8 taxation, fees, or assessments, or any other similar charges.

9 §99.59. Bankruptcy

10 Prior to the date that is one year and one day after which the corporation
11 no longer has any bonds outstanding, the corporation is prohibited from filing
12 and shall have no authority to file a voluntary petition under the federal
13 bankruptcy code as it may, from time to time, be in effect, and neither any
14 public official nor any organization, entity or other person shall authorize the
15 corporation to be or to become a debtor under the federal bankruptcy code
16 during such period. The provisions of this Section shall be part of any
17 contractual obligation owed to the holders of bonds issued under this Subpart.
18 Any such contractual obligation shall not subsequently be modified by state law
19 during the period of the contractual obligation, and the state of Louisiana
20 hereby covenants with the holders that the state shall not limit or alter the
21 denial of authority under this Section during the period referred to in the first
22 sentence hereof.

23 §99.60. Exclusive jurisdiction and venue; service of process; bond validation
24 actions

25 The Nineteenth Judicial District Court for the state of Louisiana shall
26 have exclusive jurisdiction and venue of any suit or action of any nature
27 brought by or against the corporation. Any suit or action to determine or
28 contest the validity of bonds of the corporation shall be brought and conducted
29 only in accordance with R.S. 13:5121, et seq.

1 **§99.61. Sale of economic damage revenue assets**

2 **A. The State Bond Commission subject to approval of the Joint**
3 **Legislative Committee on the Budget and subject to approval by a majority vote**
4 **of the legislature if the legislature is in session and by mail ballot during the**
5 **interim, is authorized to sell and convey, from time to time, a portion of the**
6 **state allocation to the corporation, up to one hundred percent thereof from and**
7 **after such date, and, in particular, to execute and deliver an agreement on the**
8 **closing date. The agreement shall provide, among other matters, that the**
9 **purchase price payable by the corporation to the state for the economic damage**
10 **revenue assets sold, up to one hundred percent of the state allocation from and**
11 **after such date, shall consist of the net proceeds, after financing costs, of the**
12 **first issue of economic damage revenue bonds and the residual interests to be**
13 **paid and transferred semiannually pursuant to the provisions of this Subpart.**

14 **B. Any sale of economic damage revenue assets hereunder shall be**
15 **treated as a true sale and absolute conveyance and transfer of the property, and**
16 **all of the right, title and interest in and to such property, so conveyed and**
17 **transferred, and not as a pledge or any other security interest or lien for**
18 **borrowing. The characterization of such a sale as an absolute transfer by the**
19 **parties and herein shall not be negated or adversely affected if less than all of**
20 **the state allocation is conveyed and transferred, nor by the state's acquisition**
21 **of residual interests or a subordinate interest in the economic damage revenue**
22 **assets, nor by any characterization of the corporation or its bonds for purposes**
23 **of accounting, taxation, or securities regulation, nor by any other factor**
24 **whatsoever.**

25 **§99.62. Ownership of economic damage revenue assets and economic damage**
26 **revenue payments**

27 **On and after the effective date of each sale of economic damage revenue**
28 **assets, the state of Louisiana shall have no right, title, or interest in or to the**
29 **economic damage revenue assets sold and conveyed; and the economic damage**

1 revenue payments shall be property of the corporation and not of the state, and
2 shall be owned, received, held, and disbursed by the corporation or the
3 indenture trustee and not the state or the state treasury. On or before the
4 closing date and the effective date of any subsequent sale, the state, through the
5 attorney general, shall notify the appropriate parties that the economic damage
6 revenue assets have been sold and conveyed to the corporation, irrevocably
7 instruct such parties or any successor agency that, subsequent to the closing
8 date or other effective date, the economic damage revenue payments are to be
9 paid directly to the corporation or to the indenture trustee or other designee for
10 the account of the corporation, and take such other actions necessary and
11 appropriate to effectuate such notice and instruction.

12 §99.63. Issuance of bonds of the corporation

13 A.(1) In order to provide current assets and funds for the Deepwater
14 Horizon Economic Damages Collection Fund pursuant to this Subpart for the
15 benefit of the state, the board is hereby authorized and empowered to provide
16 by resolution, at one time or from time to time, for the issuance of bonds of the
17 corporation in such amount or amounts as the board shall determine, subject
18 to the approval of the State Bond Commission and the Joint Legislative
19 Committee on the Budget.

20 (2) The bonds shall be payable solely from funds of the corporation,
21 including, without limitation, all or any combination of the following sources:

22 (i) Economic damage revenue assets.

23 (ii) The proceeds of the sales of any such bonds.

24 (iii) Earnings on funds of the corporation or the indenture trustee.

25 (iv) Income.

26 (v) Such other funds as may become available, as shall be provided by
27 the resolution of the board authorizing any such bonds.

28 (3) Bonds issued under the provisions of this Subpart shall not be
29 deemed to be nor constitute a debt or obligation of the state of Louisiana or a

1 pledge of the full faith or credit of the state, and all bonds shall contain on the
2 face thereof a statement to the effect that neither the full faith and credit nor the
3 taxing power nor any other asset or revenues of the state or any political
4 subdivision thereof is or shall be obligated or pledged to the payment of the
5 principal of or the interest on such bonds.

6 B. The bonds of each issue shall be dated, shall bear interest, which may
7 be includable or excludable in the gross income of the holder for federal income
8 tax purposes, at such fixed or variable rates, payable at or prior to maturity,
9 and shall mature at such time or times, as may be determined by the board and
10 may be redeemable before maturity, at the option of the corporation, at such
11 price or prices and under such terms and conditions as may be fixed by the
12 board, subject to the approval of the State Bond Commission and the Joint
13 Legislative Committee on the Budget. The board shall determine the form of the
14 bonds, the manner of execution of the bonds, and shall fix the denomination or
15 denominations of the bonds and the place or places of payment of principal and
16 interest thereof, which may be at any bank or trust company within or without
17 the state. The bonds shall be issued in registered form. The board may sell such
18 bonds in such manner, either at public or at private sale, and for such price as
19 it may determine to be in the best interests of the corporation, subject to
20 approval of the State Bond Commission and the Joint Legislative Committee on
21 the Budget. The proceeds of such bonds shall be disbursed for the purposes for
22 which such bonds were issued under such restrictions, if any, as the laws of the
23 state of Louisiana and the resolution authorizing the issuance of such bond or
24 the trust indenture may provide. The corporation may also provide for
25 temporary bonds and for the replacement of any bond that shall become
26 mutilated or shall be destroyed or lost. Such bonds may be issued without any
27 other proceedings or the happening of any other conditions or things than the
28 proceedings, conditions, and things that are specified and required by this
29 Subpart.

1 C. Bonds of the corporation shall not be invalid because of any
2 irregularity or defect in the proceedings or in the issuance and sale thereof and
3 shall be incontestable in the hands of a bona fide purchaser or holder. The
4 corporation, after authorizing the issuance of bonds by resolution, shall publish
5 once in a newspaper of general circulation in the parish in which the
6 corporation is domiciled, a notice of intention to issue the bonds. The notice
7 shall include a description of the bonds and the security therefor. Within thirty
8 days after the publication, any person in interest may contest the legality of the
9 resolution, any provision of the bonds to be issued pursuant to it, the provisions
10 securing the bonds, and the validity of all other provisions and proceedings
11 relating to the authorization and issuance of the bonds. If no action or
12 proceeding is instituted within the thirty days, no person may contest the
13 validity of the bonds, the provisions of the resolution pursuant to which the
14 bonds were issued, the security of the bonds, or the validity of any other
15 provisions or proceedings relating to their authorization and issuance, and the
16 bonds shall be presumed conclusively to be legal. Thereafter no court shall have
17 authority to inquire into such matters.

18 D. Neither the members of the board, its staff, nor any other person or
19 persons executing the bonds shall be subject to any personal liability or
20 responsibility by reason of the issuance thereof, and shall have the
21 indemnification rights provided in R.S. 13:5108.1 with respect to such issuance.

22 §99.64. Security for payment of bonds; provisions of trust indenture or
23 resolution

24 A. In the discretion of the board, any bonds issued, and any ancillary
25 contracts or derivative instruments made under the provisions of this Subpart,
26 may be secured by a trust indenture by and between the corporation and the
27 indenture trustee, which may be any trust company or bank having the powers
28 of a trust company, whether located within or without the state. Such trust
29 indenture, or the resolution of the board providing for the issuance of such

1 bonds, may:

2 (1) Pledge or assign all or any part of the income or other assets of the
3 corporation available for such purpose.

4 (2) Provide for the creation and maintenance of such reserves as the
5 board shall determine to be proper.

6 (3) Include covenants setting forth the duties of the corporation in
7 relation to the bonds, the income of the corporation, and the economic damage
8 revenue assets.

9 (4) Contain provisions respecting the custody, safeguarding and
10 application of all monies and securities and such provisions for protecting and
11 enforcing the rights and remedies (pursuant thereto and to the related
12 agreement) of the holders and other beneficiaries as may be reasonable and
13 proper and not in violation of law.

14 (5) Contain such other provisions as the corporation may deem
15 reasonable and proper for priorities and subordination among the holders and
16 other beneficiaries. Any reference in this Subpart to a resolution of the board
17 shall include any trust indenture authorized thereby.

18 B. Any pledge or security interest made by the corporation shall be valid
19 and binding from the time when the pledge or security interest is made. The
20 income or other assets so pledged and then or thereafter received by the
21 corporation shall immediately be subject to the lien of such pledge or security
22 interest without any physical delivery thereof or further act, and the lien of any
23 such pledge or security interest shall be valid and binding as against all parties
24 asserting or having claims of any kind in tort, contract or otherwise against the
25 corporation, irrespective of whether such parties have notice thereof. Neither
26 the resolution nor any other instrument by which a pledge or security interest
27 is created need be recorded or filed to perfect such pledge or security interest.

28 C. Whether or not the bonds are of such form and character as to be
29 negotiable instruments under the provisions of the Uniform Commercial Code,

1 the bonds are hereby made negotiable instruments for all purposes, subject only
2 to the provisions of the bonds for registration.

3 §99.65. Ancillary contracts and derivative instruments

4 A. The corporation may enter into, amend, or terminate, as it determines
5 to be necessary or appropriate, any ancillary contracts (i) to facilitate the
6 issuance, sale, resale, purchase, repurchase, or payments of bonds, including
7 without limitation bond insurance, letters of credit and liquidity facilities, or (ii)
8 to attempt to hedge risk or achieve a desirable effective interest rate or cash
9 flow, subject to approval of the State Bond Commission and the Joint
10 Legislative Committee on the Budget. The determination of the board, so
11 approved, that an ancillary contract or the amendment or termination thereof
12 is necessary or appropriate as aforesaid shall be conclusive. Such contracts shall
13 be made upon the terms and conditions established by the board and approved
14 by the State Bond Commission and the Joint Legislative Committee on the
15 Budget, including without limitation provisions as to security, default,
16 termination, payment, remedy, and consent to service of process.

17 B. The corporation may enter into, amend or terminate, any derivative
18 instrument that it determines to be necessary or appropriate to place the
19 obligations or investments of the corporation, as represented by the bonds or
20 the investment of their proceeds, in whole or in part, on the interest rate, cash
21 flow or other basis desired by the board, which contract may include without
22 limitation contracts commonly known as interest rate swap agreements, and
23 futures or contracts providing for payments based on levels of, or changes in,
24 interest rates, subject to approval of the State Bond Commission and the Joint
25 Legislative Committee on the Budget. These contracts or arrangements may be
26 entered into by the corporation, subject to approval of the State Bond
27 Commission and the Joint Legislative Committee on the Budget, in connection
28 with, or incidental to, entering into, or maintaining any (i) agreement which
29 secures bonds or (ii) investment or contract providing for investment otherwise

1 authorized by law. The determination of the board, so approved, that a
2 derivative instrument or the amendment or termination thereof is necessary or
3 appropriate as aforesaid shall be conclusive. These contracts and arrangements
4 may contain such payment, security, default, remedy, and other terms and
5 conditions as determined by the board and approved by the State Bond
6 Commission and the Joint Legislative Committee on the Budget, after giving
7 due consideration to the creditworthiness of the counterparty or other obligated
8 party, including any rating by any nationally recognized rating agency, and any
9 other criteria as may be appropriate.

10 §99.66. Bonds exempt from taxation

11 The bonds, their transfer and the income therefrom, including any profit
12 made on the sale thereof, shall at all times be free and exempt from taxation by
13 the state of Louisiana and by any other political subdivision of the state.

14 §99.67. Bond and other proceeds received by the state

15 All proceeds and monies received by the state, whether received as
16 purchase price for economic damage revenue assets sold or as the residual
17 interests or in any other way pursuant to this Subpart, shall be deposited in and
18 credited to the Deepwater Horizon Economic Damages Collection Fund.

19 §99.68. Pledge and agreement

20 The state covenants and agrees with the corporation, and the holders of
21 the bonds in which the corporation has included such pledge and agreement,
22 that the state will:

23 (1) Irrevocably direct the necessary parties or any successor agency to
24 transfer all conveyed economic damage revenue payments directly to the
25 corporation or its assignee.

26 (2) Enforce the corporation's rights to receive the economic damage
27 revenue payments to the full extent permitted by the law.

28 (3) Not amend the state law in any manner that would materially impair
29 the rights of the holders.

general, the president of the Senate and speaker of the House of Representatives, or their designees, and seven members appointed by the governor with one member appointed from each of the seven congressional districts.

Proposed law provides that the members of the board appointed by the governor shall be subject to Senate confirmation, shall represent the state's diverse population as near as practicable, and shall have a background and significant experience in financial management and investments. Provides that the members of the board appointed by the governor serve at the pleasure of the governor for terms of four years each, or until their successors shall have been appointed and qualified. Also provides that the board members shall not receive compensation but shall receive a per diem for attending meetings of the corporation or committees and may be reimbursed for travel expenses incurred in the performance of their official duties.

Proposed law provides for annual election of a chairperson and vice chairperson. Provides for the state treasurer to serve as secretary-treasurer of the corporation and board. Provides that seven members of the Board shall constitute a quorum for the transaction of all business of the corporation. Provides that the Board shall meet no less than annually.

Proposed law provides that the corporation's purpose is to carry out the financing, purchasing, owning and managing of the state allocation of the Deepwater Horizon economic damage revenues. Provides that upon dissolution of the corporation, title to all assets and properties of the corporation shall vest in and become the property of the state and shall be deposited in and credited to the Deepwater Horizon Economic Damages Collection Fund.

Proposed law provides that the staff of the Department of Treasury, including that of the State Bond Commission, may pursuant to a cooperative endeavor agreement serve as staff to the corporation under the supervision of the state treasurer. Further provides that the attorney general shall, pursuant to a cooperative endeavor agreement, serve as counsel to the corporation, and, subject to the approval of the attorney general and the state bond commission, the corporation may employ or retain such other attorneys as it may deem necessary and fix their compensation.

Proposed law provides that the books and accounts of the corporation shall be subject to audit not less than annually by the legislative auditor. Provides that the corporation may employ or retain such professionals, consultants, agents, financial advisers and accountants as it may deem necessary to carry out its duties under the proposed law and, the provisions of any other law to the contrary notwithstanding, may determine their duties and compensation subject only to the approval of the State Bond Commission.

Proposed law provides exemption from all taxation, fees or assessments, or any other similar charges for all property of the corporation.

Proposed law prohibits the corporation from filing for voluntary bankruptcy while bonds are outstanding.

Proposed law provides that the corporation is subject to the Code of Governmental Ethics, the Open Meetings Law, the Public Records Law, and the Bond Validation Procedures Law.

Proposed law provides that the State Bond Commission, subject to approval of the Joint Legislative Committee on the Budget and subject to approval by a majority vote of the legislature if the legislature is in session and by mail ballot during the interim, is authorized to sell and convey, from time to time, a portion of the state allocation to the corporation, up to one hundred percent thereof.

Proposed law further provides that, in order to provide current assets and funds for the Deepwater Horizon Economic Damages Collection Fund, the corporation board may provide

for the issuance of bonds, subject to the approval of the State Bond Commission and Joint Legislative Committee on the Budget.

Proposed law provides that such bonds shall be payable solely from funds of the corporation, including, without limitation, all or any combination of the following sources:

- (i) Economic damage revenue assets.
- (ii) The proceeds of the sales of any such bonds.
- (iii) Earnings on funds of the corporation or the indenture trustee.
- (iv) Such other funds as may become available.

Proposed law further provides that bonds issued under the provisions of the proposed law shall not be deemed to nor constitute a debt or obligation of the state or a pledge of the faith or credit of the state. Provides for security for payment of bonds through trust indentures. Provides for ancillary contracts and derivative instruments to facilitate the issuance, sale, resale, purchase, repurchase or payments of bonds or the making or performance of swap contracts, subject to the approval of the State Bond Commission and Joint Legislative Committee on the Budget.

Proposed law provides that the bonds shall be exempt from taxation by the state and by any other political subdivision of the state. Provides that all proceeds and monies received by the state, whether received as economic damage revenue assets sold or as the residual interests, shall be deposited in and credited to the Deepwater Horizon Economic Damages Collection Fund.

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

(Amends R.S. 39:91; adds R.S. 39:99.51-99.69)