

Regular Session, 2014

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

BY REPRESENTATIVE LEGER

SCHOOLS/FINANCE: Provides for allocations of certain local tax revenue to building renovation and replacement purposes in certain school districts

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.

1 (2) Proceeds of the following taxes, hereafter in this Section "facility funds",
2 shall be used to fund the school facilities preservation program:

3 (a) The proceeds of local sales taxes at a rate equivalent to the rate being
4 used as of July 1, 2014, by the school board to pay school facility debt.

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

7 (3) The proceeds of property taxes dedicated by voters for payment of bonds
8 held by the school board and in existence as of July 1, 2014 shall not be considered
9 and not otherwise administered as facility funds under the provisions of this Section.
10 Additionally, the school board shall not refinance bonds that are outstanding on July
11 1, 2014, nor shall it take any action that would delay the retirement of such bonds.
12 It is the intention of this Paragraph that such bonds be paid in full no later than the
13 dates specified by the payment schedule in existence on July 1, 2014.

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

26 C.(1) The school board and the Recovery School District shall each create
27 a facilities office. From annual facility funds each receives, it shall use fifteen
28 dollars per pupil attending school at a campus it controls in the school district or
29 whatever lesser amount is available to fund the facilities office. The school board

1 and the Recovery School District may adjust this per pupil amount on an annual
2 basis by the lesser of the most recent annual increase in the Consumer Price Index
3 published by the U.S. Department of Labor or in the minimum foundation program
4 funds.

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

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

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

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

25 D. Until all bonds referenced in Paragraph (A)(3) of this Section are retired,
26 the school board and the Recovery School District shall use facility funds remaining
27 after the allocation provided for in Subsection C of this Section for emergency
28 repairs and replacements in accordance with policies each adopts for such purpose.
29 In the school year following the retirement of such bonds, the school board and the

1 Recovery School District shall transfer unused funds received pursuant to this
2 Subsection to its respective revolving loan fund, as is provided for in Subsection E
3 of this Section.

4 E.(1) The school board and the Recovery School District shall each establish
5 a revolving loan fund and make loans from the fund to schools that are in campuses
6 controlled by each respectively and that are in the school district to finance
7 emergency or planned capital repairs and replacements, all in accordance with this
8 Subsection.

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

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

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

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

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

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

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

18 (9) If a school vacates a campus for which a loan is outstanding and another
19 school becomes the tenant in that campus, the new school assumes the debt.

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

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

28 (3) Except as provided in Paragraph (9) of this Subsection, the school facility
29 accounts shall be segregated, and funds therein shall not be commingled with other

1 school funds. Funds in such an account shall be used only for the benefit of the
2 campus for which it was established. The school board and Recovery School District
3 shall each adopt investment policies governing school facility accounts. The
4 provisions of R.S. 33:2955 and R.S. 49:321 are applicable to such accounts.
5 Investment and interest earnings generated on funds in a school facility account shall
6 be credited to the account and shall not be transferred to another account or used for
7 purposes other than those allowable for funds in the school facility account. A
8 school facility account shall be audited annually in accordance with monitoring
9 policies developed by the school board and the Recovery School District, which shall
10 include verification that the proper amounts were deposited into the school facility
11 account and invested and used according to law and policy.

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

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

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

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

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

4 (9) A charter operator may make a loan to a school facility account. The
5 loan shall be made only from excess fund balances or other funds not designated for
6 instructional purposes from the school holding the school facility account or another
7 school under the same operator. All such loans shall be interest free. If the school
8 tenant of a campus with an outstanding loan to the school facility account changes,
9 the new school tenant must pay back the loan under the same terms as the prior
10 tenant. If a school is loaning money to the school facility account, the loan can be
11 repaid with funds from the school facility account, just as if the school had borrowed
12 money from the revolving loan fund, as provided for in Subsection E of this Section.

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

20 (11) Funds in a school facility account are the property of the school board
21 or the Recovery School District, whichever entity controls the campus. A school
22 facility account is campus specific and remains with the campus should the school
23 tenant of the campus change or should the school tenant no longer occupy the
24 campus.

25 G.(1) Neither the school board nor the Recovery School District shall charge
26 rent or any other fee to a charter school in the school district for the occupancy, use,
27 or repair of a campus it controls other than as authorized by this Section. The
28 Recovery School District or the school board may, however, require a charter school
29 to pay for maintenance, insurance, utilities, and other costs related to the operation

1 and upkeep of a campus, as outlined in the lease agreement for occupancy of the
2 campus.

3 (2) The school board and the Recovery School District shall annually prepare
4 and issue a public report that includes all of the following: the amount of funds in
5 its respective revolving facility loan fund and all loans made therefrom, the amount
6 of facility funds distributed to each campus by the Recovery School District or the
7 school board, the amount allocated to fund the respective facility office of each, and
8 the cost and type of each emergency repair made by the facilities office if applicable.
9 The Recovery School District shall submit its report to the State Board of
10 Elementary and Secondary Education.

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

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

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

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

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

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

6 Section 2 This Act shall become effective on July 1, 2014; if vetoed by the governor
7 and subsequently approved by the legislature, this Act shall become effective on July 1,
8 2014, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Leger

HB No. 1271

Abstract: Provides for a school facilities preservation program in certain school districts; provides for the dedication of specified local tax revenue to the program; provides for various facets of the program covering maintenance, emergency repairs, and capital replacement. Provides for operation of the program by the school board and the Recovery School District with respect to schools each controls in the district.

Proposed law establishes a school facilities preservation program in certain school districts; the program is applicable in school districts in which failing schools were transferred to the jurisdiction of the Recovery School District (RSD) in accordance with a specified provision of present law.

Proposed law provides for dedication of certain local tax revenues to the purposes of the program; those tax revenues are referred to in this digest as "facility funds" and are the proceeds of:

- (1) Sales taxes at a rate equivalent to the rate being used as of July 1, 2014, by the school board to pay school facility debt.
- (2) Property taxes dedicated to capital outlay and authorized by voters after July 1, 2014, to support the purposes of proposed law.

Proposed law prohibits the school board from refinancing or delaying repayment of bonds that are outstanding on July 1, 2014.

Proposed law requires annual payment of a proportionate share of facility funds to the RSD. The proportion is determined by the proportion of students in schools controlled by the RSD to the total number of students in the school district. Provides relative to auditing of these numbers.

Proposed law requires the school board and the RSD to each create a facilities office. Dedicates a portion of facility funds to funding the office. Provides that to the extent such funds are available, each facilities office shall:

- (1) Inspect and monitor facilities to ensure that they are being maintained and that each campus is in compliance with maintenance and inspection requirements. Provides remedies available if a school is not properly maintained.
- (2) Manage building leases, handle emergency repairs, and administer the revolving facility loan fund and school facility repair and replacement accounts, all as provided for by proposed law.

Proposed law authorizes a facilities office to provide additional facilities services to charter schools, including emergency and capital repairs or replacements, procurement services, and technical assistance, and to charge fees for such services pursuant to a written agreement with the school.

Proposed law provides for the use of facility funds beyond those dedicated to funding the facilities offices; provides different uses of such funds during the period prior to the retirement of bonds of the school board that are outstanding on July 1, 2014, and the period after retirement of such bonds.

Prior to retirement of such bonds, proposed law provides that remaining facility funds shall be used by the school board and RSD for emergency repairs and replacements in accordance with policies each adopts for such purpose.

After retirement of such bonds, proposed law provides for dedication of remaining facility funds to a revolving loan fund and to school facility accounts as provided below.

Proposed law requires the school board and the RSD to establish a revolving loan fund and make loans from the fund to schools to finance emergency or planned capital repairs and replacements. Requires annual deposits to the revolving loan funds for 20 years following the retirement of the bonds outstanding on July 1, 2014. Provides for a per campus amount to be deposited to the revolving loan fund. Per campus amounts differ for facilities that were constructed prior to Sept. 1, 2005, and that have not received a renovation exceeding half the value of the facility's replacement cost since that date and other schools.

Proposed law provides as follows with respect to the revolving loan fund and loans to schools:

- (1) Requires the adoption of polices governing eligible repairs and replacements, emergency repairs, approval of loan applications, maintenance of a minimum balance in the loan fund, and priorities for granting loans.
- (2) Provides that a school's eligibility for a loan is in part determined by the balance in its school facility account.
- (3) Requires that loan applications from a charter school be approved by the charter school's board prior to submission to the school board or the RSD.
- (4) Loans shall be interest free except that a loan origination fee not exceeding 5% or \$30,000, whichever is less, may be charged.
- (5) Schools must repay loans in accordance with the terms of the loan agreement from funds to be deposited to its school facility account.
- (6) Prohibits use of loans for operating expenses, maintenance, or insurance costs.
- (7) If a school vacates a campus for which a loan is outstanding and another school becomes the tenant in that campus, the new school assumes the debt.

Proposed law requires the operator of each school to establish and maintain a school facility repair and replacement account for each campus. Provides for the remainder of per campus amounts of facility funds to be deposited into such accounts. Provides as follows with respect to such accounts:

- (1) Requires that such funds remain segregated and used only for the benefit of the particular campus. Provides that investment and interest earnings shall be credited to the account. Requires audits of such accounts.
- (2) Limits the use of such accounts to emergency or planned capital repairs and replacements.
- (3) Requires each school to develop a long-term capital plan for each campus.
- (4) Provides for approval of nonemergency and emergency expenditures.
- (5) Provides relative to loans to the accounts from a charter operator.
- (6) Authorizes the school board or the RSD to terminate a school's control and use of the account if the school does not follow applicable legal and policy requirements.
- (7) Specifies that funds in an account are the property of the school board or the RSD and that such accounts are campus specific and remain with the campus.

Proposed law prohibits the school board and the RSD from charging rent or any other fee to charter schools for the occupancy, use, or repair of a campus it controls other than as provided for in proposed law. Requires the school board and the RSD to annually prepare and issue a public report on the program and requires the RSD to submit its report to the State Board of Elementary and Secondary Education.

Effective July 1, 2014.

(Adds R.S. 17:100.11)