

2015 Regular Session

HOUSE BILL NO. 756

BY REPRESENTATIVES OURSO AND LAMBERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION: Provides relative to Grant Anticipation Revenue Vehicles (GARVEE) Bonds

1 AN ACT

2 To amend and reenact R.S. 48:27(A), (B), (C), (D)(1)(a) and (2)(a), (E), (F), (G), (H)(1) and
3 (12), and (J), relative to Grant Anticipation Revenue Bonds; to provide for technical
4 corrections; to provide for the definitions of certain terms; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 48:27(A), (B), (C), (D)(1)(a) and (2)(a), (E), (F), (G), (H)(1) and
8 (12), and (J) are hereby amended and reenacted to read as follows:

9 §27. Grant Anticipation Revenue Vehicles

10 A. Short title. This ~~Act~~ Section shall be known and cited as the "Grant
11 Anticipation Revenue Vehicle Act of 2002".

12 B. Legislative findings and determinations. (1) The Legislature of
13 Louisiana hereby finds and determines that the rapid growth of the economy of this
14 state has prompted new and ever-increasing uses of public highways, roads, and
15 other transportation infrastructure, and it is critical to the well-being and quality of
16 life of the citizens of this state that the state address, on an accelerated basis, the
17 long-term transportation needs of this state. The Legislature of Louisiana further

1 determines that current transportation funding mechanisms do not provide adequate
2 revenues to keep pace with the increasing demands of the state's transportation
3 system.

4 (2) By utilizing revenue anticipation bonds for the financing of state
5 transportation projects that may be financed, in whole or in part, with federal
6 transportation funds, a significant amount of up-front revenues can be generated for
7 such transportation projects. This will enable the design and construction of
8 transportation projects on an accelerated basis. Utilizing revenue anticipation bonds
9 to finance federal-aid transportation projects and state transportation projects will
10 result in significant cost savings to the state, since such transportation projects can
11 be completed at present day costs and at an accelerated pace.

12 (3) The Legislature of Louisiana further finds and declares that the bonds
13 authorized herein constitute revenue bonds as provided in Article VII, Section 6 of
14 the Constitution of Louisiana and the payment of the bonds with the amounts
15 authorized herein is permitted under Article VII, Section 27 of the Constitution of
16 Louisiana as part of the department's program for state highway construction.

17 (4) It is hereby determined that the issuance of the bonds and the program
18 as herein authorized are in all respects public and governmental purposes for the
19 improvement of the health, safety, welfare, comfort, and security of the people of the
20 state, and that said purposes are public purposes and that the State Bond Commission
21 on behalf of the state of Louisiana will be performing an essential governmental
22 function and meeting a public obligation in the exercise of the powers conferred
23 upon it by this ~~Act~~ Section.

24 C. Definitions. Whenever used in this ~~Act~~ Section, unless a different
25 meaning clearly appears in the context, the following terms shall mean the following:

26 (1) ~~"Act" means this Act.~~

27 ~~(2)~~ "Bonds" means bonds, notes, or other evidences of indebtedness.

28 ~~(3)~~(2) "Constitution" means the ~~constitution of the state, as amended~~
29 Louisiana Constitution of 1974.

1 ~~(4)~~(3) "Department" means the Department of Transportation and
2 Development ~~of the state of Louisiana.~~

3 ~~(5)~~(4) "Federal transportation funds" means funds paid or reimbursed to the
4 department by the United States Department of Transportation including, without
5 limitation, future Federal Highway Administration obligational authority or Federal
6 Highway Administration reimbursement funds and any other monies payable under
7 Title 23 of the United States Code, as amended ~~from time to time.~~

8 ~~(6)~~(5) "Qualified federal-aid transportation project" ~~means any state project~~
9 ~~that may be financed, pursuant to Article VII, Section 27(B) of the Constitution of~~
10 ~~Louisiana, in whole or in part, with federal transportation funds~~ means any project
11 to be constructed, in whole or in part, with monies appropriated out of the
12 Transportation Trust Fund, Article VII, Section 27 of the Constitution of Louisiana,
13 including but not limited to a new bridge across the Mississippi River connecting
14 Louisiana Highway 1 to Louisiana Highway 30.

15 ~~(7)~~(6) "State" means the state of Louisiana.

16 ~~(8)~~(7) "State Bond Commission" means the State Bond Commission of the
17 state, acting on behalf of the state.

18 ~~(9)~~(8) "State matching funds" means fees, rates, rentals, taxes, tolls, charges,
19 grants, or other receipts or income derived by or in connection with a transportation
20 project or undertaking, other than federal transportation funds, that may be used by
21 the department to pay the costs of any qualified federal-aid transportation projects
22 or state transportation projects.

23 ~~(10)~~(9) "State transportation project" means any state transportation project
24 other than the projects enumerated in Act No. 16 of the 1989 First Extraordinary
25 Session of the Louisiana Legislature, including but not limited to a new bridge across
26 the Mississippi River connecting Louisiana Highway 1 to Louisiana Highway 30.

27 D. Power to issue bonds; repayment; principal amount of bonds.

28 (1)(a) The State Bond Commission, or its successor, on behalf of the state,
29 is hereby authorized to issue bonds for the purpose of financing any qualified

1 federal-aid transportation project or state transportation project, including but not
2 limited to a new bridge across the Mississippi River connecting Louisiana Highway
3 1 to Louisiana Highway 30, secured by a pledge of and payable from any of the
4 following:

5 (i) ~~Federal transportation funds and state~~ State matching funds, if any, that
6 are appropriated on an annual basis for such purpose by the state.

7 (ii) Federal transportation funds maintained in a separate identifiable fund
8 or account outside of the state treasury as provided in Subparagraph (2)(a) of this
9 Subsection.

10 ~~(ii)(iii)~~ Any proceeds of such bonds and any earnings from the investment
11 of such bond proceeds pledged for such purpose.

12 ~~(iii)(iv)~~ Other revenues, funds, or other security, if any, pledged or
13 appropriated for such purpose under state law.

14 * * *

15 (2)(a) The portion of the principal of and interest on the bonds and the costs
16 associated with the issuance and administration of such bonds that may be paid from
17 federal transportation funds pursuant to federal law and any agreement between the
18 United States Department of Transportation and the department hereinafter referred
19 to in this Paragraph as "the federal share of principal, interest, and costs", shall be
20 paid from federal transportation funds ~~that the legislature, in its sole discretion, has~~
21 ~~appropriated on an annual basis for this purpose in accordance with state law.~~ In
22 accordance with the provisions of Article VII, Section 9(A)(6) of the Constitution,
23 there is hereby established a special fund for the purpose of providing for the
24 securitization of any bonds which may be issued pursuant to the provisions of this
25 Section which shall include requirements for reserves and credit enhancement
26 devices, all as may be provided in any resolution, trust agreement, indenture, or other
27 instrument pursuant to which the bonds were issued. The fund shall be administered
28 by a trustee as designated by the State Bond Commission. The source of monies in
29 the fund shall be the federal transportation funds. Federal transportation funds, up

1 the provision securing the bonds, and the validity of all other provisions and
2 proceedings relating to the authorization and issuance of the bonds. If no action or
3 proceeding is instituted within the thirty days, no person may contest the validity of
4 the bonds, the provisions of the resolution pursuant to which the bonds were issued,
5 the security of the bonds, or the validity of any other provisions or proceedings
6 relating to their authorization and issuance, and the bonds shall be presumed
7 conclusively to be legal. Thereafter no court shall have authority to inquire into such
8 matters.

9 F. Financial obligations subject to appropriation. Any bond issued in
10 accordance with this Section shall constitute a contract between the state of
11 Louisiana and the owner or holder thereof. In no event shall any decision by the
12 state not to appropriate; state matching funds, ~~or federal transportation funds~~ in any
13 given fiscal year for the payment of such bonds or any costs associated with the
14 issuance and administration for such bonds be construed to constitute an action
15 impairing such contract. Every contract entered into by the State Bond Commission
16 pursuant to the provisions of this Section shall provide that all ~~financial~~ state
17 matching fund obligations of the state under such contracts are subject to
18 appropriation on an annual basis by the state and that such contracts do not constitute
19 or create debt of the state, within the meaning of any constitutional or statutory
20 provisions whatsoever, and neither the full faith or credit nor the taxing power of the
21 state is pledged to the payment of the principal of, premium, if any, or the interest
22 on the bonds. In addition, bonds issued by the State Bond Commission on behalf of
23 the state pursuant to the provisions of this Section and every contract relating to the
24 issuance of such bonds shall provide that all financial obligations of the state in
25 regard to the portion of the principal of and interest on such bonds and the costs
26 associated with the issuance and administration of such bonds that may be paid from
27 federal transportation funds pursuant to federal law and any agreement between the
28 United States Department of Transportation and the department are subject to
29 continuing federal appropriations of federal transportation funds at a level equal to

1 or greater than the amount needed to pay the federal share of principal, interest, and
2 costs on the bonds.

3 G. Pledges. Any pledge made by the State Bond Commission pursuant to
4 this Section shall be valid and binding from the time the pledge is made. The
5 revenues, securities, and other monies so pledged and then held or thereafter received
6 by the ~~State Bond Commission~~ state or any fiduciary shall immediately be subject
7 to the lien of such pledge without any physical delivery thereof or further act, and the
8 lien of any such pledge shall be valid and binding as against all parties having claims
9 of any kind in tort, contract, or otherwise against the State Bond Commission
10 whether or not such parties have notice thereof. Neither the resolution nor any trust
11 agreement by which a pledge is created need be filed or recorded except in the
12 official minutes of the State Bond Commission.

13 H.(1) Certain details of the bonds. Notwithstanding any provision of law to
14 the contrary, the bonds shall be of such series, bear such date or dates, be serial or
15 term bonds, mature at such time or times no later than thirty years from their date,
16 bear interest at such fixed, variable, or adjustable rate or rates payable on such date
17 or dates, be in such denomination, be in such form, carry such registration and
18 exchangeability provisions, be payable in such medium of payment and at such place
19 or places, be subject to such terms of redemption, and be entitled to such priorities
20 on the amounts pledged to secure the bonds as the resolution or trust agreement
21 authorizing or securing such bonds may provide. The bonds may be additionally
22 secured by municipal bond insurance, bank guarantees, surety bonds, letters of
23 credit, lines of credit, or other devices to enhance the credit quality of the bonds, or
24 any combination thereof, as the State Bond Commission determines. ~~In addition,~~
25 ~~derivative products, including interest rate exchange agreements and other interest~~
26 ~~rate hedge agreements, may be used to either enhance the marketability of the bonds~~
27 ~~or to minimize interest rate risks, or both.~~

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (12) Complete authority. This Section does and shall be construed to
 2 provide a complete method for the doing of the things authorized hereby. No
 3 proceedings, notice, or approval shall be required for the issuance of any bonds or
 4 of any instruments or security therefor or any credit enhancement except as provided
 5 herein and the bonds issued hereunder shall not be included in the calculation of net
 6 state tax supported debt as defined in R.S. 39:1367 unless the bonds are served by
 7 a state appropriation as set forth in a cooperative endeavor agreement. The
 8 provisions of this ~~Act~~ Section shall be liberally construed for the accomplishment of
 9 its purposes.

* * *

11 J. Powers. The powers conferred by this ~~Act~~ Section shall be in addition and
 12 supplemental to, and not in substitution for, and the limitations imposed by this ~~Act~~
 13 Section shall not directly or indirectly modify, limit, or affect, the powers conferred
 14 to the department or the State Bond Commission by any other law.

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)]

HB 756 Reengrossed	2015 Regular Session	Ourso
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Abstract: Provides relative to the authorization of the State Bond Commission to issue Grant Anticipation Revenue Vehicles (GARVEE bonds).

Present law authorizes the State Bond Commission to issue GARVEE bonds to finance the accelerated construction of certain state transportation projects.

Proposed law retains present law.

Present law defines "state transportation project" as any state transportation project other than the projects enumerated in the Transportation Infrastructure Model for Economic Development Program (TIMED projects).

Proposed law adds a new bridge across the Mississippi River connecting La. Highway 1 to La. Highway 30 as a state transportation project for purposes of proposed law.

Present law provides for the pledge of certain federal highway funds received by the state and state matching funds provided by the state as security for the bonds.

Proposed law retains present law but requires that federal transportation funds be maintained in a separate identifiable fund or account outside of the state treasury. The separate fund, to be administered by a trustee designated by the State Bond Commission, is established for

the securitization of bonds. Federal transportation funds, up to the amount necessary to pay debt service, shall be set aside in the fund and shall be assigned and pledged to the trustee for the benefit of the bondholders. After the satisfaction of legal requirements, the federal transportation funds shall be available for any other purposes.

Present law provides that such bonds shall be issued by the State Bond Commission but only after the issuance has been approved by the Joint Committee on Transportation, Highways and Public Works. The Joint Legislative Committee on the Budget also approves expenditures of the proceeds held by trustee banks. Further provides that the aggregate amount of principal and interest on all bonds issued under this authority shall not exceed 10% of annual federal highway funds.

Proposed law retains present law and authorizes the state treasurer to enter into a collection agreement with the trustee to provide for the collection of federal funds.

Present law allows for the use of derivative products to enhance the marketability of the bonds or to minimize interest rate risks.

Proposed law eliminates the use of derivative products.

Proposed law provides that bonds issued shall not be included in the calculation of net state tax supported debt unless their debt service is provided through state appropriated funds.

(Amends R.S. 48:27(A), (B), (C), (D)(1)(a), (2)(a), (E), (F), (G), (H)(1) and (12), and (J))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Provide for the segregation of state matching funds and federal transportation funds held to secure the issuance and provide payment of the bonds. Federal funds shall be maintained in a fund administered by a trustee designated by the State Bond Commission.
2. Allow the state treasurer to enter into a collection agreement with the trustee to provide for the collection of federal funds.
3. Eliminate the use of derivative products to enhance the marketability of the bonds or to minimize interest rate risks.
4. Provide that the bonds shall not be included in the calculation of net state tax supported debt unless the debt service is made through state appropriation.