

SENATE BILL NO. 237

BY SENATOR CORTEZ

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AN ACT

To amend and reenact R.S. 47:338.86(B), relative to the issuance of bonds by the Lafayette Parish School Board; to provide for the maximum term; to provide for the application of the provisions of Chapters 13 and 13-A of Title 39 of the Louisiana Revised Statutes of 1950 to the bonds; to provide relative to the form, provisions, and negotiability of the bonds; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:338.86(B) is hereby amended and reenacted to read as follows:  
§338.86. Lafayette Parish School Board; use of sales and use tax proceeds; issuance  
of bonds

\* \* \*

B.(1) Subject to the approval at an election as ~~hereinbefore~~ required in Subsection A of this Section, the Lafayette Parish School Board may fund the tax revenues into ~~negotiable~~ bonds in the manner herein provided. In order to obtain funds for the purpose of paying all or any part of the cost of any capital improvement on which the tax revenues may be expended, the board may issue bonds payable solely from an irrevocable pledge and dedication of the avails or proceeds of the tax, subject only to the prior payment of the costs and expenses of administration and collection of the tax; provided, however, ~~said~~ the bonds shall ~~never~~ not be issued if the principal and interest maturities on all such bonds then outstanding and those proposed to be issued will require in any year in excess of fifty ~~per cent~~ percent of the avails or proceeds of the tax estimated by the board to be collected in the calendar year during which the bonds are to be issued.

1           (2) The Lafayette Parish School Board shall, by resolution, fix the form,  
2           maturities, and terms of the bonds and the rate or rates of interest, ~~payable annually~~  
3           ~~or semi-annually, within the maximum rate prescribed herein. The bonds shall be~~  
4           ~~issued in the name of the parish School Board of the Parish of Lafayette, state of~~  
5           ~~Louisiana, and shall be payable in such medium and at such place or places within~~  
6           ~~or without the state as may be fixed by such resolution. The bonds shall be serial~~  
7           ~~coupon bonds, shall be payable in annual installments with maturities beginning not~~  
8           ~~more than three years after the date of the bonds, and shall run for a period not to~~  
9           ~~exceed twenty-five years from the date thereof. No bonds issued hereunder shall bear~~  
10           ~~interest at a rate exceeding six per centum per annum, or be sold for less than par. All~~  
11           ~~bonds shall be signed by the President and the Secretary of the board, under its~~  
12           ~~official seal, and the coupons shall be signed by the facsimile signatures of such~~  
13           ~~officials. The delivery of any bonds or coupons so executed at any time thereafter~~  
14           ~~shall be valid, although, before the date of delivery, any person or persons signing~~  
15           ~~the bonds or coupons shall cease to hold office~~ **with a term not to exceed forty**  
16           years. The maturities of the bonds shall be so arranged that the total amount of  
17           principal and interest falling due in any year, together with principal and interest  
18           falling due in such year on all bonds theretofore issued hereunder and then  
19           outstanding, shall never exceed fifty ~~per centum~~ **percent** of the amount of sales tax  
20           revenues estimated by the parish school board to be received by it in the calendar  
21           year during which the bonds are issued.

22           (3) Bonds issued hereunder shall constitute a borrowing solely upon the  
23           credit of the sales and use tax revenues received or to be received by the board, and  
24           shall not constitute an indebtedness or pledge of the general credit of the parish or  
25           the board within the meaning of any constitutional or statutory provision relating to  
26           the incurring of indebtedness, and the bonds shall contain a recital to that effect.  
27           ~~Such bonds shall be in coupon form, but may be made registrable as to principal only~~  
28           ~~if so provided in the resolution authorizing the issuance thereof. They may be made~~  
29           ~~redeemable in advance of maturity at the option of the board at such premium or~~  
30           ~~premiums not greater than five per centum of the principal amount of the bonds as~~

1           ~~the board may determine:~~

2                   (4) Bonds issued hereunder shall be payable solely from and secured by an  
3           irrevocable pledge and dedication of such part of the sales tax revenues as may be  
4           pledged thereto in the authorizing resolution. Any holder of any of such bonds, ~~or~~  
5           ~~coupons attached thereto,~~ may ~~either at law or in equity,~~ by suit, action, mandamus  
6           or other proceedings, enforce and compel performance of all duties required to be  
7           performed by the board as a result of issuing the bonds, and may similarly enforce  
8           the provisions of the ordinance imposing the tax and the resolution and proceedings  
9           authorizing the issuance of such bonds.

10                   (5) The board may in any resolution authorizing such bonds provide for the  
11           respective priorities of its separate blocks, series, or issues of bonds issued  
12           hereunder, and may provide for the issuance of additional bonds in the future on a  
13           parity therewith pursuant to such procedure or restrictions as may be specified in  
14           such resolution. In the absence of such provision, if more than one series of bonds  
15           shall be issued hereunder payable from the same sales tax revenues, priority of lien  
16           on such revenues shall depend on the time of the delivery of such bonds, each series  
17           enjoying a lien prior and superior to that enjoyed by any series of bonds subsequently  
18           delivered, except that as to any issue or series of bonds which may be authorized as  
19           a unit but delivered from time to time in blocks, the board may in the proceedings  
20           authorizing the issuance of such bonds provide that all of the bonds of such series or  
21           issue shall be co-equal as to lien regardless of the time of delivery;<sup>2</sup> provided that  
22           nothing herein stated shall vest in any holder of bonds any right of lien or priority of  
23           any kind against any part of the sales and use tax revenues not pledged to the  
24           payment of the bonds by the proceedings authorizing the issuance thereof.

25                   (6) When any bonds shall have been issued hereunder neither the legislature,  
26           the board, nor any other authority may discontinue or decrease the tax or permit to  
27           be discontinued or decreased the tax in anticipation of the collection of which such  
28           bonds have been issued, or in any way make any change in the allocation and  
29           dedication of the proceeds of such tax which would diminish the amount of the sales  
30           and use tax revenues to be received by the board, until all of such bonds shall have

1           been retired as to principal and interest, and there is hereby vested in the holders  
2           from time to time of such bonds ~~and the coupons representing interest thereon,~~ a  
3           contract right in the provisions of this Section.

4                     (7) Any resolution may contain such covenants with the future holder or  
5           holders of the bonds as to the sales and use tax revenues, the disposition of such  
6           revenues, the issuance of future bonds, and such other pertinent matters as may be  
7           deemed necessary by the parish school board to assure the marketability of such  
8           bonds, provided such covenants are not inconsistent with the provisions of this  
9           Section.

10                    (8) Any resolution authorizing the issuance of bonds hereunder may contain  
11           such provisions to assure the enforcement, collection, and proper application of the  
12           sales and use tax revenues as the board may think proper, where not inconsistent  
13           with the provisions of this Section, and when any bonds payable from the tax  
14           revenues shall have been issued, this Section, the ordinance of the board imposing  
15           the tax and pursuant to which the tax is being collected, and the obligation of the  
16           board to continue to levy, collect, and allocate the tax, and to apply the revenues  
17           derived therefrom in accordance with the provisions of ~~said~~ **the** ordinance, shall be  
18           irrevocable until such bonds have been paid in full as to principal and interest, and  
19           shall not be subject to amendment in any manner which would impair the rights of  
20           the holders from time to time of such bonds or which would in any way jeopardize  
21           the prompt payment of principal thereof or interest thereon.

22                    (9) ~~All bonds issued hereunder shall be advertised for sale on sealed bids,~~  
23           ~~which advertisement shall be published at least once a week for three weeks, the first~~  
24           ~~publication to be made at least twenty-one days preceding the date fixed for the~~  
25           ~~reception of bids. Advertisement shall be in the official journal of the board and also~~  
26           ~~in a financial paper published in the city of New York, the city of Chicago, or the~~  
27           ~~city of New Orleans, or in a newspaper of general circulation published in a city of~~  
28           ~~this state having a population of not less than 50,000 inhabitants, according to the~~  
29           ~~last Federal census. The board may reject any and all bids. If the bonds are not sold~~  
30           ~~pursuant to the advertisement they may be sold by the board at private sale, within~~

1           ~~sixty days after the date advertised for the reception of sealed bids, but no private~~  
2           ~~sale shall be made at a price less than the highest bid which shall have been received.~~  
3           ~~If not so sold, the bonds shall be re-advertised in the manner herein prescribed.~~

4           ~~(10)~~ The proceeds derived from the sale of bonds issued hereunder shall be  
5           used exclusively by the board for the purpose or purposes for which the bonds are  
6           authorized to be issued but the purchasers of the bonds shall not be obligated to see  
7           to the application thereof.

8           ~~(11)~~**(10)** Before bonds are issued hereunder, the parish school board shall  
9           investigate and determine the regularity of the proceedings. The resolution  
10          authorizing the bonds may direct that they contain the following recital:

11            "It is certified that this bond is authorized by and is issued in conformity with  
12            the requirements of the constitution and statutes of this state."

13           Such recital shall be deemed to be an authorized declaration of the board and  
14           to import that there is constitutional and statutory authority for issuing the bonds and  
15           imposing the tax; that all the proceedings therefor are regular; that all acts,  
16           conditions and things required to exist, happen, and be performed precedent to and  
17           in the issuance of the bonds and imposition of the tax have existed, have happened  
18           and have been performed in due time, form, and manner as required by law; that the  
19           amount of the bonds, together with all other indebtedness of the board does not  
20           exceed any limit or limits prescribed by the constitution or statutes of this state; and  
21           that the required notices have been duly and regularly given by publication in the  
22           manner required by law. If any bonds are issued containing the above recital, the  
23           same shall be construed according to the import herein declared, and it shall be  
24           conclusively presumed that the recital is true, and neither the board nor any taxpayer  
25           shall be permitted to question the validity or regularity of the bonds, obligations or  
26           tax in any court or in any action or proceeding.

27           ~~(12)~~**(11)** After the time within which the validity of the bonds may be  
28           contested has elapsed, that is, thirty days from the date of publication of the  
29           resolution authorizing the bonds and pledging and dedicating the sales tax revenues,  
30           the bonds shall be registered with the Secretary of State without charge and shall

1 have endorsed thereon the words:

2 "Incontestable. Secured by a pledge and dedication of a sales and use tax in  
 3 the Parish of Lafayette, Louisiana. Registered this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.  
 4 \_\_\_\_\_

5 SECRETARY OF STATE"

6 All bonds issued under the provisions of this Section and the interest thereon shall  
 7 be exempt from taxation. ~~Said~~ **The** bonds may be used for deposit with any officer,  
 8 board, municipality, or other political subdivision of the State **state** of Louisiana in  
 9 any case where deposit of security is required.

10 ~~(13)~~**(12)** ~~The provisions of this Section shall be construed as cumulative~~  
 11 ~~authority for the exercise of the powers herein granted. The powers conferred by this~~  
 12 ~~Section shall not be affected or limited by any other provision of any statute of the~~  
 13 ~~state, and no provision, publication, election or right of referendum shall be required~~  
 14 ~~or afforded in the performance of any act herein authorized to be done, including the~~  
 15 ~~imposition, collection and application of the tax and issuance of bonds payable~~  
 16 ~~therefrom, except as herein otherwise specifically provided. Notwithstanding any~~  
 17 ~~provision of this Section or any other law to the contrary, any bonds issued~~  
 18 ~~pursuant to this Section shall also be subject to the provisions of Chapters 13~~  
 19 ~~and 13-A of Title 39 of the Louisiana Revised Statutes of 1950.~~

20 ~~(14)~~**(13)** ~~Bonds issued hereunder shall have all the qualities of negotiable~~  
 21 ~~paper and shall constitute negotiable instruments under the Negotiable Instruments~~  
 22 ~~Law of the state of Louisiana. They shall not be invalid for any irregularity or defect~~  
 23 ~~in the proceedings for the issuance and sale thereof and shall be incontestable in the~~  
 24 ~~hands of bona fide purchasers or holders for value.~~

25 ~~(15)~~**(14)** ~~The resolution authorizing the issuance of the bonds hereunder and~~  
 26 ~~pledging and dedicating sales and use tax revenues to the payment thereof shall be~~  
 27 ~~recorded in the mortgage records of the parish of Lafayette and shall be published~~  
 28 ~~in one issue of the official journal of the board. For a period of thirty days from the~~  
 29 ~~date of the publication of ~~said~~ **the** resolution, any person in interest may contest the~~  
 30 ~~legality of the bonds provided for or the tax, the proceeds of which are so pledged~~

1 and dedicated, for any cause after which time no one shall have any cause or right  
 2 of action to contest the legality, formality, or regularity of the proceedings, the tax,  
 3 or bond authorization, for any cause whatsoever. If the question of the validity of any  
 4 proceedings, tax, or bond authorization provided for under the provisions of this  
 5 Section is not raised within the thirty days, the authority to issue the bonds, the  
 6 regularity thereof, the validity of the tax or portion thereof pledged and dedicated to  
 7 provide for the payment of principal and interest, and the enforceability of the pledge  
 8 thereof, shall be conclusively presumed, and no court may inquire into such matters.  
 9 If any resolution is adopted or proceedings had more than thirty days after the  
 10 publication of the resolution authorizing the issuance of bonds hereunder and  
 11 pledging and dedicating any of the sales tax revenues, such supplemental resolution  
 12 or proceedings shall be similarly published, and no contest, action, or proceeding to  
 13 question the validity or legality of such supplemental resolution or proceedings shall  
 14 be begun in any court by any person for any cause whatsoever after the expiration  
 15 of thirty days from the date on which such supplemental resolution or proceeding is  
 16 published.

17 Section 2. This Act shall become effective upon signature by the governor or, if not  
 18 signed by the governor, upon expiration of the time for bills to become law without signature  
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 21 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_