

2022 Regular Session

HOUSE BILL NO. 925

BY REPRESENTATIVES BUTLER AND BISHOP

CAPITAL OUTLAY: Establishes the Louisiana Infrastructure Revolving Loan Program to provide financial assistance to local governments and political subdivisions for certain capital infrastructure projects

AN ACT

To enact Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:462.1 through 462.6, and 1367(E)(2)(b)(ix), relative to the capital outlay program; to provide with respect to the funding and financing of certain capital projects; to provide a funding source for certain capital expenditures by local governments; to establish the Louisiana Infrastructure Revolving Loan Program; to provide for the administration, investment, and disposition of certain monies; to authorize the State Bond Commission to incur debt and issue bonds, notes, or other evidences of indebtedness and to guarantee the debt of certain other entities; to authorize loans from the commission to nonstate public entities for certain eligible infrastructure projects; to provide procedures for local governments to enter into indebtedness and provide for repayment of indebtedness; to exempt interest on such indebtedness from taxation; to authorize the legislative auditor to review certain applications; to establish the Louisiana Infrastructure Revolving Loan Program Fund; to provide for the deposit, use, and investment of monies into the fund; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

1 Section 1. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of
2 1950, comprised of R.S. 39:462.1 through 462.6, and 1367(E)(2)(b)(ix) are hereby enacted
3 to read as follows:

4 CHAPTER 3-C. LOUISIANA INFRASTRUCTURE

5 REVOLVING LOAN PROGRAM

6 §462.1. Louisiana Infrastructure Revolving Loan Program; purposes

7 A. The legislature finds that:

8 (1) State government has assisted in funding many local capital outlay
9 projects that are necessary to provide local facilities, but the choice involved with
10 this state funding is to either reduce the amount of funding available for state
11 programs and services or ignore the need for assistance to local governments.

12 (2) Even with established state and federal government programs to assist
13 local governments with needed and necessary funding for infrastructure projects,
14 including those for clean water and sewerage projects, local governments encounter
15 financial challenges in meeting local contributions required by the existing state
16 capital outlay program and other infrastructure programs.

17 (3) The most effective way of accomplishing the goal of providing for local
18 infrastructure project financing and for preservation of the state fisc over the long
19 term is to establish a low-interest-rate revolving loan fund to be available for local
20 infrastructure projects to provide an alternative means to fund appropriate local
21 infrastructure projects that would otherwise compete with scarce state funding for
22 state projects.

23 B. In order to continue to provide required funding for the planning, design,
24 construction, and maintenance connected with needed infrastructure projects, it is the
25 purpose of this Chapter to provide for the establishment and administration of a
26 program to make loans from a revolving loan fund to assist local governments in
27 funding eligible infrastructure projects, and enter into cooperative endeavor
28 agreements and interstate compacts as may be necessary and proper to fulfill the
29 purposes of this Chapter.

1 §462.2. Louisiana Infrastructure Revolving Loan Program; definitions

2 The following terms as used in this Chapter shall have the following
3 meanings:

4 (1) "Approved infrastructure program" means a program through which an
5 eligible infrastructure project may be funded including but not limited to the
6 following programs:

7 (a) State Capital Outlay Budget Program as provided in R.S. 39:101 et seq.,
8 administered by the division of administration, office of facility planning and
9 control.

10 (b) Clean Water State Revolving Fund established pursuant to R.S. 30:2301
11 et seq.

12 (c) Drinking Water Revolving Loan Fund established pursuant to R.S.
13 40:2821 et seq.

14 (2) "Commission" means the State Bond Commission.

15 (3) "Certifying department" means a state department or agency with
16 authority to administer and approve an eligible infrastructure project in accordance
17 with laws and regulations governing the respective approved infrastructure program.
18 The State Bond Commission shall be the certifying department for projects that have
19 an anticipated useful life of less than twenty years and a value or cost of less than
20 fifty thousand dollars.

21 (4) "Department" means the Department of the Treasury.

22 (5) "Eligible infrastructure project" or "project" means a plan or proposal
23 approved by the respective certifying department, which would require or use a local
24 match or other required local contribution, or require funding for eligible
25 infrastructure project costs that can be provided by the commission. "Eligible
26 infrastructure project" includes an emergency request.

27 (6) "Emergency request" means a project request submitted by a local
28 government to a certifying department between legislative sessions that is essential
29 to alleviate conditions that are hazardous to life, health, or property. "Emergency

1 request" includes but is not be limited to funding for a project that has an anticipated
2 useful life of less than twenty years and a value or cost of less than fifty thousand
3 dollars and that would not otherwise qualify for funding in an approved
4 infrastructure program.

5 (7) "Loan" means the loan from the commission to the local government
6 evidenced by a bond, note, or other evidence as provided in this Chapter.

7 (8) "Local" or "local government" means a political subdivision as defined
8 in Article VI, Section 44 of the Constitution of Louisiana.

9 (9) "Revolving loan fund" means a fund established in law to be used to
10 make loans through the commission.

11 §462.3. Louisiana Infrastructure Revolving Loan Program Fund

12 A. There is hereby established a revolving fund in the state treasury to be
13 known as the "Louisiana Infrastructure Revolving Loan Program Fund", hereinafter
14 referred to as the "fund", which shall be maintained and operated by the department.
15 The source of monies deposited in and credited to the fund shall be all grants, gifts,
16 and donations received by the state for the purpose of funding the fund; any money
17 appropriated by the legislature to the fund; the repayment of principal of and interest
18 on loans and other obligations made to political subdivisions financed from the fund;
19 administrative fees; and other revenues as may be provided by law.

20 B. Money in the fund shall be invested by the state treasurer in the same
21 manner as money in the state general fund. Interest earned on the investment of the
22 money in the fund shall be credited to the fund after compliance with the
23 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative
24 to the Bond Security and Redemption Fund. All unexpended and unencumbered
25 money in the fund at the end of a fiscal year shall remain in the fund.

26 C. The repayment of principal of and interest on loans and other obligations
27 made to political subdivisions financed from the fund shall be deposited into the fund
28 and may be used to finance loans and obligations to other political subdivisions if

1 reserves for expenditures for the administration of the fund that the department
2 deems necessary and prudent are retained in the fund.

3 D. The department may, by suit, action, mandamus, or other proceedings,
4 protect and enforce any covenant relating to and the security provided in connection
5 with any indebtedness issued pursuant to this Chapter, and may, by suit, action,
6 mandamus, or other proceedings enforce and compel performance of all of the duties
7 required to be performed by the governing body and officials of any borrower
8 hereunder and in any proceedings authorizing the issuance of bonds or other
9 evidences of such indebtedness.

10 E. The department shall promulgate rules and regulations in accordance with
11 the Administrative Procedure Act, as are necessary, for the following:

12 (1) To adopt a schedule of reasonable fees and charges to pay for the costs
13 of administering the fund.

14 (2) To respond to emergency requests and to consider loan applications for
15 eligible infrastructure projects that have an anticipated useful life of less than twenty
16 years and a value or cost of less than fifty thousand dollars.

17 (3) To implement the provisions of this Chapter.

18 F. The department may enter into contracts and other agreements in
19 connection with the operation of the fund.

20 §462.4. Revolving loan fund; loans for eligible infrastructure projects; authorizing
21 and issuing debt; security; interest rates; tax exemption

22 A.(1) Notwithstanding any provision of law to the contrary, and in addition
23 to the authority to lend or borrow money or incur or guarantee indebtedness provided
24 by any other provision of law, sums on deposit in and credited to the fund may be
25 loaned from the revolving loan fund to local governments for use in connection with
26 eligible infrastructure projects. However, this Section shall not be deemed to be the
27 exclusive authority under which a local government may borrow money or incur
28 indebtedness.

1 (2) Local governments may enter into loans from the revolving loan fund in
2 accordance with this Section, but no loan shall be made nor debt evidencing the loan
3 be issued or incurred without the approval of the commission.

4 B. All bonds, notes, or other evidences of indebtedness of any local
5 government issued to represent a loan shall be authorized and issued pursuant to a
6 resolution or ordinance of the governing authority of that entity, hereinafter referred
7 to collectively as "resolution". The resolution shall prescribe the form and details
8 thereof, including the terms, security for, manner of execution, repayment schedule,
9 and redemption features thereof, and the resolution may provide that an officer of
10 that entity may execute in connection with the obligation any related contract,
11 including but not limited to a credit enhancement device, indenture of trust, loan
12 agreement, pledge agreement, or other agreement or contract needed to accomplish
13 the purposes for which the evidence of indebtedness is given, in substantially the
14 form referenced in the resolution, but which final executed credit enhancement
15 device, indenture of trust, loan agreement, pledge, or other contract or agreement
16 may contain changes, additions, and deletions as shall in the sole opinion of the
17 executing officer be appropriate under the circumstances. The resolution shall
18 include a statement as to the maximum principal amount of any obligation, the
19 maximum interest rate to be incurred or borne by the obligation or guaranteed by the
20 obligation, the maximum redemption premium, if any, and the maximum term in
21 years for the obligation, guarantee, or pledge.

22 C. Notwithstanding any other provision of law to the contrary, a local
23 government, upon entering into a loan as provided in this Chapter, may dedicate and
24 pledge a portion of any revenues it has available to be pledged and dedicated,
25 including but not limited to revenues from the general revenue fund, sales taxes,
26 sewer user fees, assessments, parcel fees, or ad valorem property taxes, for a
27 sufficient term to repay the principal of, interest on, and any premium, administrative
28 fee or other fee or cost incurred, in connection with the loan.

1 D. Any evidence of indebtedness authorized pursuant to this Chapter shall
2 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the
3 resolution authorizing and providing for the issuance thereof. Any rate or rates of
4 interest may be fixed, variable, or adjustable rates.

5 E. The general laws of the state governing fully registered securities of
6 public entities shall be applicable to the bonds, notes, or other evidences of
7 indebtedness issued pursuant to this Chapter.

8 F. A resolution authorizing a loan pursuant to this Section shall be published
9 once in the official journal or a newspaper of general circulation in the parish or local
10 government entity incurring the loan. It shall not be necessary to publish exhibits to
11 the resolution, but the exhibits shall be made available for public inspection at the
12 offices of the governing authority of the parish, municipality, or other political
13 subdivision at reasonable times, and notice of the availability of these documents
14 shall be stated in the publication within the official journal or newspaper of general
15 circulation in the parish or local government entity incurring the loan. For a period
16 of thirty days after the date of publication, any person in interest may contest the
17 legality of the resolution authorizing the evidence of indebtedness or other loan and
18 any provision thereof made for the security and payment of the debt. After the
19 thirty-day period, no one shall have any cause or right of action to contest the
20 regularity, formality, legality, or effectiveness of the resolution and the provisions
21 thereof or of the bonds, notes, or other evidences of indebtedness or other loan, or
22 to provide for the payment of the debt, or the legality thereof, and all of the
23 provisions of the resolution and evidence of indebtedness shall be conclusively
24 presumed valid, and no court shall have authority or jurisdiction to inquire into the
25 matter.

26 G. The bonds, notes, or other evidences of indebtedness or loans may be
27 used for deposit with any officer, board, municipality, or other political subdivision
28 of the state in any case where, by present or future laws, deposit of security is
29 required for state funds. Additionally, the proceeds of bonds, notes, or other

1 evidences of indebtedness or loans issued pursuant to the provisions of this Chapter
2 may be used for costs associated with the issuance of bonds, notes, or other
3 evidences of indebtedness.

4 §462.5. General power to issue and incur debt; guarantees of the debt of other
5 entities

6 A. The commission, on behalf of the state, may issue, incur, and deliver debt
7 evidenced by bonds, notes, or other evidences of indebtedness, payable from or
8 secured by sums deposited in, credited to, or to be received by the commission in
9 order to provide monies for deposit into the fund. The commission may undertake
10 and issue and deliver evidences of its guarantee of the debt of other entities and may
11 enter into and execute pledges of the sums deposited in, credited to, or to be received
12 by the commission, including payments pursuant to letters of credit, to secure the
13 debt or performance of obligations of a local government for a project. Bonds, notes,
14 or other evidences of indebtedness, guarantees, and pledges issued and delivered
15 pursuant to this authority shall constitute special and limited obligations of the
16 commission and shall not be secured by the full faith and credit of the state or any
17 source of revenue of the state other than those sums on deposit in or credited to the
18 revolving loan fund, or to be received by the commission, including payments to be
19 made pursuant to letters of credit. Debt issued pursuant to the provisions of this
20 Chapter shall be deemed to be in compliance with the provisions of Article VII,
21 Section 14 of the Constitution of Louisiana.

22 B. In no event shall any bond, note, or other evidence of indebtedness, or
23 guarantee, pledge, or other obligation of any type whatsoever entered into by the
24 commission constitute net state tax supported debt within the meaning of Article VII,
25 Section 6(F) of the Constitution of Louisiana.

26 C. Any withdrawal of monies from the revolving loan fund to pay debt
27 service on any bond, note, or other evidence of indebtedness, obligation of guarantee
28 of any debt, pledge to secure any debt, or fees and associated costs to administer a

1 loan shall not constitute and shall not be subject to appropriation by the legislature
 2 as provided by Article III, Section 16 of the Constitution of Louisiana.

3 §462.6. Duties of the legislative auditor

4 The legislative auditor may review all applications for compliance with the
 5 provisions of this Chapter. The state treasurer and the loan applicant shall be
 6 responsible for providing the legislative auditor with all claims and necessary
 7 documentation to carry out his reviews.

8 * * *

9 §1367. State debt; limitations

10 * * *

11 E. As used in this Section, the following terms shall have the following
 12 meanings ascribed to them unless the context clearly indicates otherwise:

13 * * *

14 (2)

15 * * *

16 (b) "Net state tax supported debt" shall not mean:

17 * * *

18 (ix) Any bond, note, certificate, warrant, reimbursement obligation,
 19 guarantee, credit enhancement, pledge, assistance, or other evidence of indebtedness
 20 issued pursuant to R.S. 39:462.1 et seq.

21 Section 2. This Act shall become effective on July 1, 2022; if vetoed by the governor
 22 and subsequently approved by the legislature, this Act shall become effective on July 1,
 23 2022, 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)]

HB 925 Engrossed

2022 Regular Session

Butler

Abstract: Establishes the La. Infrastructure Revolving Loan Program to provide financial assistance for eligible infrastructure projects of local governments.

Proposed law provides definitions for purposes of proposed law including those for "approved infrastructure program", "eligible infrastructure project", "certifying department", and "local government".

Proposed law defines an "emergency request" as an eligible infrastructure project request submitted by a local government to a certifying department between legislative sessions that is essential to alleviate conditions that are hazardous to life, health, or property. "Emergency request" includes funding for projects that have an anticipated useful life of less than 20 years and a value or cost of less than \$50,000 and that would not otherwise qualify for funding in an approved infrastructure program.

Proposed law designates the State Bond Commission as the certifying department for emergency requests.

Proposed law requires that before a loan or other assistance may be requested from the commission, the project shall first have been approved by the "certifying department".

Proposed law, with respect to a bond, note, or other evidence of indebtedness of a local government issued through a loan, provides for the same requirements concerning interest rates and public notice as provided in present law concerning the adoption of a resolution or ordinance authorizing the issuance of indebtedness.

Proposed law authorizes a local government to pledge as security for a loan and any ancillary fees or other costs, any revenues from its general revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes.

Proposed law for purposes of security of debt or performance obligations of debt for projects, authorizes the commission to issue and deliver evidences of its guarantee of the debt of other entities, and to execute pledges of the monies on deposit in the commission, including payments pursuant to letters of credit. All evidences of indebtedness, guarantees, and pledges delivered pursuant to this authority shall constitute limited obligations of the commission and shall not be secured by the full faith and credit of the state.

Proposed law provides that the withdrawal of monies from the revolving loan fund to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee of any debt, or pledge to secure any debt, or fees and associated costs to administer a loan shall not constitute or be subject to appropriation by the legislature.

Proposed law authorizes the legislative auditor to review all applications for compliance with the provisions of proposed law.

Present law provides for the definition of "net state tax supported debt" and includes those issuances excluded from the definition.

Proposed law retains present law and adds as an exclusion, any bond, note, certificate, warrant, reimbursement obligation, or other evidence of indebtedness issued pursuant to proposed law.

Effective July 1, 2022.

(Adds R.S. 39:462.1-462.6 and 1367(E)(2)(b)(ix))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Remove authorization for local governments to apply for funding through the Infrastructure Revolving Loan Program to fund match requirements for eligible infrastructure projects.
2. Delete provisions regarding the taxability of interest on bonds or loans issued pursuant to the Infrastructure Revolving Loan Program.