

2023 Regular Session

HOUSE BILL NO. 155

BY REPRESENTATIVES BUTLER, BACALA, CARPENTER, CREWS, EDMONDS,
KERNER, LYONS, MCFARLAND, ROMERO, THOMPSON, AND WHEAT

1 AN ACT

2 To enact Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 39:462.1 through 462.8, and R.S. 39:1367(E)(2)(b)(x), relative
4 to the funding and financing of certain capital projects; to provide a funding source
5 for certain capital expenditures by local governments; to establish the Louisiana
6 Rural Infrastructure Revolving Loan Program; to provide for the administration,
7 investment, and disposition of certain monies; to establish eligibility criteria; to
8 provide for requirements and limitations; to authorize the State Bond Commission
9 to incur debt and issue bonds, notes, or other evidences of indebtedness and to
10 guarantee the debt of certain other entities; to authorize loans from the commission
11 for certain eligible infrastructure projects; to provide procedures for local
12 governments to enter into indebtedness and provide for repayment of indebtedness;
13 to exempt interest on such indebtedness from taxation; to establish the Louisiana
14 Rural Infrastructure Revolving Loan Program Fund; to provide for the deposit, use,
15 and investment of monies into the fund; to authorize the legislative auditor to review
16 certain applications; to require certain reports; to provide relative to implementation;
17 to provide for effectiveness; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of
20 1950, comprised of R.S. 39:462.1 through 462.8, and R.S. 39:1367(E)(2)(b)(x) are hereby
21 enacted to read as follows:

CHAPTER 3-C. LOUISIANA RURAL INFRASTRUCTUREREVOLVING LOAN PROGRAM§462.1. Louisiana Rural Infrastructure Revolving Loan Program; purposesA. The legislature finds that:

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

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

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

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

§462.2. Louisiana Rural Infrastructure Revolving Loan Program; definitions

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

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

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

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

9 (c) Drinking Water Revolving Loan Fund established pursuant to R.S.
10 40:2821 et seq.

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

12 (3) "Certifying department" means a state department or agency with
13 authority to administer and approve an eligible infrastructure project in accordance
14 with laws and regulations governing the respective approved infrastructure program.
15 The State Bond Commission is the certifying department for emergency requests.

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

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

22 (6) "Emergency request" means a project request submitted by a local
23 government to a certifying department between legislative sessions that is essential
24 to alleviate conditions that are hazardous to life, health, or property. "Emergency
25 request" includes but is not limited to funding for a project that has an anticipated
26 useful life of less than twenty years and a value or cost of less than fifty thousand
27 dollars and that would not otherwise qualify for funding in an approved
28 infrastructure program.

29 (7) "Loan" means the loan from the commission to the local government
30 evidenced by a bond, note, or other evidence of indebtedness as provided in this

1 Chapter. The maximum amount of a loan that may be funded through the revolving
 2 loan fund is one million five hundred thousand dollars.

3 (8) "Local" or "local government" for purposes of this Chapter means a
 4 political subdivision as defined in Article VI, Section 44 of the Constitution of
 5 Louisiana which has a population of less than fifteen thousand according to the latest
 6 federal decennial census. A local government shall be limited to one loan from the
 7 revolving loan fund until the loan is paid in full.

8 (9) "Revolving loan fund" means the Louisiana Rural Infrastructure
 9 Revolving Loan Program Fund established in R.S. 39:462.3.

10 §462.3. Louisiana Rural Infrastructure Revolving Loan Program Fund

11 A. There is hereby established a revolving loan fund in the state treasury to
 12 be known as the "Louisiana Rural Infrastructure Revolving Loan Program Fund",
 13 hereinafter referred to in this Chapter as the "fund", which shall be maintained and
 14 operated by the department. The source of monies deposited in and credited to the
 15 fund shall be all grants, gifts, and donations received by the state for the purpose of
 16 funding the fund; any money appropriated by the legislature to the fund; the
 17 repayment of principal of and interest on loans and other obligations made to local
 18 governments financed from the fund; administrative fees; and other revenues as may
 19 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 local governments financed from the fund shall be deposited into the fund
 28 and may be used to finance loans and obligations for projects of other local
 29 governments if reserves for expenditures for the administration of the fund that the
 30 department deems necessary and prudent are retained in the fund.

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

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

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

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

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

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

18 §462.4. Revolving loan fund; eligibility requirements; loans for eligible
 19 infrastructure projects; authorizing and issuing debt; security; interest rates;
 20 tax exemption

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

27 (2) In order for a local government to be eligible for a loan pursuant to the
 28 provisions of this Chapter, the local government shall comply with all of the
 29 following:

1 (a) The local government shall demonstrate it has financial resources and a
 2 financial strategy for the duration of the lifecycle of the project to ensure the project
 3 is sufficiently funded, maintained, and replaced as needed.

4 (b) The local government shall be in good-standing and comply with the
 5 audit requirements provided for in R.S. 24:513 at the time the local government
 6 applies for and receives the loan as well as during the duration of the term of the
 7 loan.

8 (3) A local government is limited to one loan from the revolving loan fund;
 9 however, once all of the principal, interest, and any other fees and obligations due
 10 under the loan agreement are paid in full, the local government may apply for a new
 11 loan from the revolving loan fund.

12 (4) No loan shall be made nor debt evidencing the loan be issued or incurred
 13 without the approval of the commission.

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

1 redemption premium, if any, and the maximum term in years for the obligation,
 2 guarantee, or pledge.

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

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

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

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

1 to provide for the payment of the debt, or the legality thereof, and all of the
2 provisions of the resolution and evidence of indebtedness shall be conclusively
3 presumed valid, and no court shall have authority or jurisdiction to inquire into the
4 matter.

5 G. Interest on bonds, notes, or other evidences of indebtedness issued for any
6 loan entered into under the authority of this Chapter shall be exempt from all state
7 taxation pursuant to the provisions of R.S. 39:511 and R.S. 47:48. The bonds, notes,
8 or other evidences of indebtedness or loans may be used for deposit with any officer,
9 board, municipality, or other political subdivision of the state in any case where, by
10 present or future laws, deposit of security is required for state funds. Additionally,
11 the proceeds of bonds, notes, or other evidences of indebtedness or loans issued
12 pursuant to the provisions of this Chapter may be used for costs associated with the
13 issuance of bonds, notes, or other evidences of indebtedness.

14 §462.5. General power to issue and incur debt; guarantees of the debt of other
15 entities

16 A. The commission, on behalf of the state, may issue, incur, and deliver debt
17 evidenced by bonds, notes, or other evidences of indebtedness, payable from or
18 secured by sums deposited in, credited to, or to be received by the commission in
19 order to provide monies for deposit into the fund. The commission may undertake
20 and issue and deliver evidences of its guarantee of the debt of other entities and may
21 enter into and execute pledges of the sums deposited in, credited to, or to be received
22 by the commission, including payments pursuant to letters of credit, to secure the
23 debt or performance of obligations of a local government for a project. Bonds, notes,
24 or other evidences of indebtedness, guarantees, and pledges issued and delivered
25 pursuant to this authority shall constitute special and limited obligations of the
26 commission and shall not be secured by the full faith and credit of the state or any
27 source of revenue of the state other than those sums on deposit in or credited to the
28 revolving loan fund, or to be received by the commission, including payments to be
29 made pursuant to letters of credit. Debt issued pursuant to the provisions of this

1 Chapter shall be deemed to be in compliance with the provisions of Article VII,
2 Section 14 of the Constitution of Louisiana.

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

7 C. Any withdrawal of monies from the revolving loan fund to pay debt
8 service on any bond, note, or other evidence of indebtedness, obligation of guarantee
9 of any debt, pledge to secure any debt, or fees and associated costs to administer a
10 loan shall not constitute and shall not be subject to appropriation by the legislature
11 as provided by Article III, Section 16 of the Constitution of Louisiana.

12 §462.6. Duties of the legislative auditor

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

17 §462.7. Reports to the legislature

18 Beginning January 1, 2026, and every two years thereafter, the commission
19 shall issue a report to the House Committee on Ways and Means and the Senate
20 Committee on Revenue and Fiscal Affairs which includes information on the number
21 of loans approved by the commission, outstanding loan balances, including principal
22 and interest, the status of any debt sold to provide monies for the fund, costs incurred
23 by the commission to administer the fund, and the status of rules adopted by the
24 commission.

25 §462.8. Subject to Appropriation

26 The implementation of this Chapter shall be subject to the appropriation of
27 funds by the legislature for this purpose.

28 * * *

29 §1367. State debt; limitations

30 * * *

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

3 * * *

4 (2)

5 * * *

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

7 * * *

8 (x) Any bond, note, certificate, warrant, reimbursement obligation,
9 guarantee, credit enhancement, pledge, assistance, or other evidence of indebtedness
10 issued pursuant to R.S. 39:462.1 et seq.

11 Section 2. This Act shall become effective on July 1, 2023; if vetoed by the governor
12 and subsequently approved by the legislature, this Act shall become effective on July 1,
13 2023, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____