

Regular Session, 2011

SENATE BILL NO. 253

BY SENATOR JACKSON

BONDS. Provides relative to the issuance of bonds by public trusts. (8/15/11)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

AN ACT

To amend and reenact R.S. 9:2347(A)(1), (H), and (M), relative to the issuance of bonds by public trusts; to provide for the publication of the notice of intention to issue bonds, notes, or other evidences of indebtedness by a public trust; to provide for the sale of bonds, notes and other evidences of indebtedness by a public trust; to provide that property owned by certain public trusts authorized to issue bonds to finance projects, is public and used for a public purpose; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2347(A)(1), (H), and (M) are hereby amended and reenacted to read as follows:

§2347. Bonds of public trust

A. To provide funds for and to fulfill and achieve its authorized public functions or purposes, a public trust may incur debt and issue bonds, notes or other evidences of indebtedness, hereinafter referred to collectively as "bonds" subject to the following:

(1) If the beneficiary of the public trust is a parish, municipality, or a political or governmental subdivision thereof, and such bonds or other debt obligations are

1 issued for the purpose of providing, constructing, expanding, or altering public  
2 facilities which are to be operated, maintained, or administered by any such parish,  
3 municipality, or political or governmental subdivision thereof, such bonds shall be  
4 approved by a vote of a majority of the qualified electors of the beneficiary who vote  
5 in a special election held for that purpose in the manner provided by ~~Subtitle H,~~  
6 ~~Chapter 4, Part II of Title 39~~ **Chapter 6-A of Title 18 (R.S. 18:1281 et seq.)** of the  
7 Louisiana Revised Statutes of 1950. Furthermore, in all other cases, if the beneficiary  
8 of the trust is a parish, municipality, or a political or governmental subdivision  
9 thereof, all bonds and other debt obligations shall be issued only after the trust has  
10 adopted an appropriate resolution giving notice of its intention to issue such bonds  
11 or other debt obligations, which resolution shall include a general description of the  
12 bonds or other debt obligations to be issued and the security therefor, and notice of  
13 this intention shall be published once a week for ~~four~~ **two** weeks in a newspaper in  
14 the locality of the beneficiary or in the parish where it is located, the first publication  
15 to appear at least thirty days before the public meeting of the trust at which the trust  
16 will meet in open and public session to hear any objections to the proposed issuance  
17 of such bonds or other debt obligations. The notice of intent so published shall state  
18 the date, time, and place of the public hearing and shall state, and the law is hereby  
19 declared to be, that if at such hearing a petition duly signed by electors of the  
20 beneficiary in a number not less than five per cent of the electors of the beneficiary  
21 voting at the last special or general election object to the issuance of the proposed  
22 bonds or other debt obligations, then such bonds or other debt obligations shall not  
23 be issued until approved by a vote of a majority of the qualified electors of the  
24 beneficiary who vote in a special election held for the purpose in the manner  
25 provided by ~~Subtitle H, Chapter 4, Part II of Title 39~~ **Chapter 6-A of Title 18 (R.S.**  
26 **18:1281 et seq.)** of the Louisiana Revised Statutes of 1950. Any such petition shall  
27 be accompanied by a certificate of the parish registrar of voters certifying that the  
28 signers of the petition are qualified electors of the beneficiary and the number of  
29 signers amounts to not less than five per cent of the electors in said beneficiary in

1 number, voting at the last special or general election. ~~Prior to the publication of the~~  
2 ~~notice of intention required hereinabove, the contents of said notice of intention shall~~  
3 ~~be approved by the State Bond Commission.~~ All bonds and other debt obligations  
4 issued hereunder for the purpose of providing, developing, securing and improving  
5 the water storage, treatment, supply and distribution services and facilities and  
6 sanitary and storm sewer collection, disposal, treatment and drainage services and  
7 facilities, shall be issued in accordance with the provisions of Subpart B or C, Part  
8 I of Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950, and/or any and  
9 all other laws of the state pertaining to revenue bonds for public utilities.

10 \* \* \*

11 H. All bond issues of a public trust shall be submitted to and approved by the  
12 State Bond Commission prior to the issuance and delivery of said bonds. All bonds  
13 of a public trust shall be sold by ~~the State Bond Commission~~ **such public trust**.  
14 Provided, bonds of a public trust issued in connection with any projects or facilities  
15 of the trust for the provisions of industrial, manufacturing, or other economic  
16 development facilities and activities shall be sold in accordance with the provisions  
17 of R.S. 39:991, et seq., subject to the requirement that a notice of intent to sell such  
18 bonds shall be published at least seven days in advance of the sale date. After  
19 approval by the State Bond Commission as required herein and at least seven days  
20 prior to the sale of such bonds ~~by the State Bond Commission~~, the public trust shall  
21 cause to be published a notice of sale in a newspaper of general circulation in the  
22 parish of the beneficiary's situs, or if the state or any state agency be the beneficiary,  
23 such publication shall be in the official state journal, and in a financial journal or  
24 newspaper containing a section devoted to municipal bond news published in either  
25 New Orleans, Louisiana, or New York, New York. This notice of sale shall state if  
26 any proposals have been made for the purchase of the bonds and that other proposals  
27 will be considered and that the proposal most advantageous to the issuer will be  
28 accepted at the time of the sale. After adoption of the resolution or other proceedings  
29 authorizing the sale of bonds, said resolution or other proceedings shall be published

1 in a newspaper of general circulation in the parish of the beneficiary's situs, or, if the  
 2 state or any state agency be the beneficiary, such publication shall be in the official  
 3 state journal. For a period of thirty days from the date of publication of the notice of  
 4 sale, any person or persons in interest shall have the right to contest the legality of  
 5 the notice of sale, resolution or other proceedings authorizing the issuance of the  
 6 bonds and the legality of the bond issue for any cause, after which time no one shall  
 7 have any cause or right of action to contest the legality of said resolution or other  
 8 proceedings or of the bonds authorized thereby for any cause whatsoever. If no suit,  
 9 action or proceedings are begun contesting the validity of the bonds within the thirty  
 10 days herein prescribed, the authority to issue the bonds and to provide for the  
 11 payment thereof, the legality thereof and of all of the provisions of the resolution or  
 12 other proceedings authorizing the issuance of the bonds shall be conclusively  
 13 presumed, and no court shall have authority to inquire into such matters. Such bonds  
 14 shall have all the qualities of negotiable instruments under the law merchant and the  
 15 commercial laws of the state of Louisiana.

16 \* \* \*

17 M. The property of any public trust, having as its beneficiary ~~the a parish,~~  
 18 **municipality, or a political or governmental subdivision thereof** ~~of Jefferson,~~  
 19 which is authorized under its trust indenture to engage in or issue bonds to finance  
 20 projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1),  
 21 acquired or held for one or more of said purposes, is hereby declared to be public  
 22 property used for essential public and governmental purposes. Accordingly, such  
 23 public trust, and all of its properties at any time owned by it and the income  
 24 therefrom and all bonds issued by it and the income therefrom, shall be exempt from  
 25 all taxes of the parish or municipality, the state, or any political subdivision thereof  
 26 or any other taxing body, provided, however, that such public trust may require the  
 27 lessee of each of the projects of the public trust to pay annually to parish or  
 28 municipal taxing authorities or to any other taxing body, through the normal  
 29 collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities

1 for any services rendered by them to such projects, which sum shall not be in excess  
 2 of the ad valorem taxes such lessee would have been obligated to pay to such  
 3 authorities had it been the owner of such project during the period for which such  
 4 payment is made. Such payments to be made in lieu of taxes together with any fees  
 5 and charges of such public trust, to the extent in the aggregate they do not exceed the  
 6 amount of taxes that would be paid if the lessee were the owner, shall constitute  
 7 statutory impositions within the meaning of R.S. 47:2128. No provision of this  
 8 Subsection shall become effective until approved by resolution of the ~~Jefferson~~  
 9 ~~Parish Council~~ **parish, municipality, or a political or governmental subdivision**  
 10 **thereof which is the beneficiary of such public trust.**

---

The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Martha S. Hess.

---

#### DIGEST

Present law provides for the creation of public trusts to issue obligations and to provide funds for the furtherance and accomplishment of any authorized public function or purpose of the state or of any parish, municipality, political or governmental subdivision, or any other governmental unit in the state in real or personal property.

Proposed law retains present law.

Present law provides that a public trust may incur debt and issue bonds, notes, or other evidences of indebtedness to provide funds to fulfill and achieve its authorized public functions or purposes, and provides that if the beneficiary of the public trust is a parish, municipality, or a political or governmental subdivision thereof, all bonds or other debt obligations shall only be issued after the public trust has adopted a resolution giving notice of its intention to issue such bonds, and notice of this intention shall be published once a week for four weeks in a newspaper in the locality of the beneficiary or in the parish where it is located, with the first publication to appear at least 30 days before the public meeting of the trust to hear any objections to the proposed issuance of the bonds.

Proposed law retains present law except that proposed law reduces the required publication from once a week for four weeks to once a week for two weeks.

Present law provides for the electorate to approve the issuance of bond issues of certain public trusts in certain circumstances. Proposed law makes technical change to update citations for the procedure for bond elections from Subtitle II, Chapter 4, Part II of Title 39 of the La. Revised Statutes of 1950 to Chapter 6-A of Title 17 of the La. Revised Statutes of 1950.

Present law requires that prior to the publication of the required notice of intention, the contents of said notice of intention shall be approved by the State Bond Commission. Proposed law deletes present law.

Present law requires that all bond issues of a public trust shall be submitted to and approved by the State Bond Commission prior to the issuance and sale of the bonds by the State Bond

Commission.

Proposed law retains present law requirement that all bond issues of a public trust be submitted to and approved by the State Bond Commission prior to the issuance and sale of the bonds, but proposed law changes the seller of the bonds from the State Bond Commission to the public trust.

Present law provides that the property of a public trust having Jefferson Parish as its beneficiary which is authorized under its trust indenture to engage in or issue bonds to finance projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1), which is acquired or held for one or more of said purposes, is public property used for essential public and governmental purposes. Provides that, accordingly, such public trust, its properties and income, and bonds it issues and income from such bonds are exempt from all taxes of the parish or municipality, the state, or any political subdivision thereof or any other taxing body. Present law further provides that such public trust may require the lessee of each of the projects of the public trust to pay annually to parish or municipal taxing authorities or to any other taxing body, through the normal collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities for any services rendered by them to such projects. Further provides that new law shall not become effective until approved by a resolution of the Jefferson Parish Council.

Proposed law retains present law but deletes references to Jefferson Parish and makes present law applicable to any public trust, having as its beneficiary a parish, municipality, or a political or governmental subdivision thereof.

Effective on August 15, 2011.

(Amends R.S. 9:2347(A)(1), (H) and (M))