

Regular Session, 2014

SENATE BILL NO. 118

BY SENATOR DORSEY-COLOMB

FUNDS/FUNDING. Establishes the Fiscal Administrator Revolving Loan Fund as a special fund in the state treasury and provides relative to the fund. (gov sig)

1 AN ACT

2 To enact R.S. 39:1357, relative to fiscal administrators for political subdivisions; to establish

3 the Fiscal Administrator Revolving Loan Fund as a special fund in the state treasury;

4 to provide for the deposit of certain monies into the fund; to provide for the uses of

5 monies in the fund; to authorize certain political subdivisions to borrow from the

6 fund; to provide the terms and conditions of such borrowing; to provide for an

7 effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 39:1357 is hereby enacted to read as follows:

10 **§1357. Fiscal Administrator Revolving Loan Fund**

11 **A. There is hereby established a revolving fund in the state treasury to**

12 **be known as the "Fiscal Administrator Revolving Loan Fund", hereinafter**

13 **referred to as the "fund", which shall be maintained and operated by the**

14 **Department of the Treasury. The source of monies deposited in and credited**

15 **to the fund shall be all grants, gifts, and donations received by the state for the**

16 **purpose of funding fiscal administrators; any money appropriated by the**

17 **legislature to the fund; the repayment of principal of and interest on loans and**

1 other obligations made to political subdivisions financed from the fund; and
2 other revenues as may be provided by law.

3 B. Money in the fund shall be invested by the treasurer in the same
4 manner as money in the state general fund. Interest earned on the investment
5 of the money in the fund shall be credited to the fund after compliance with the
6 requirements of Article VII, Section 9(B) relative to the Bond Security and
7 Redemption Fund. All unexpended and unencumbered money in the fund at
8 the end of a fiscal year shall remain in the fund.

9 C. Notwithstanding any provisions of law to the contrary, and in
10 addition to the authority to borrow money or incur debt under any other
11 provisions of law, any political subdivision for which a fiscal administrator is
12 in the process of being appointed or which has been appointed as provided in
13 this Chapter, is hereby authorized to borrow money from and incur debt
14 payable to the fund in accordance with the provisions of this Section. Such
15 borrowing shall be subject to the approval of:

16 (1) The legislative auditor, the attorney general, and the state treasurer.

17 (2) The fiscal administrator, if one has been appointed by the court.

18 (3) The district court having jurisdiction over the fiscal administration.

19 (4) The State Bond Commission.

20 D. The monies in the fund shall be appropriated and used only for the
21 purpose of providing financial assistance to a political subdivision for which a
22 court has appointed a fiscal administrator as provided in this Chapter by
23 providing a source of funds from which the political subdivision may borrow in
24 order to pay the costs and expenses associated with the independent fiscal
25 administration of the political subdivision, including but not limited to all costs
26 and expenses incurred by the fiscal administrator, the legislative auditor, the
27 attorney general, the state treasurer, and any other persons engaged in
28 connection with the independent fiscal administration.

29 E. Each loan shall be evidenced by a bond, note, or other evidence of

1 indebtedness of the borrower issued to represent an obligation to repay a loan
2 from the fund and shall be authorized and issued pursuant to a resolution or
3 ordinance of the governing authority of such entity, which shall prescribe the
4 form and details thereof, including the terms, security for, manner of execution,
5 repayment schedule, and redemption features thereof. Any such resolution or
6 ordinance shall set forth the maximum principal amount, the maximum interest
7 rate, which shall be at an interest rate that is less than or equal to the market
8 interest rate, as determined by the Department of the Treasury, the maximum
9 redemption premium, if any, and the maximum term of such indebtedness.

10 F. All resolutions or ordinances authorizing the issuance of bonds, notes,
11 or other evidence of indebtedness of a political subdivision hereunder shall be
12 published once in the official journal of the borrower. It shall not be necessary
13 to publish exhibits to such resolution or ordinance, but such exhibits shall be
14 made available for public inspection at the offices of the governing authority of
15 the borrower at reasonable times and such fact shall be stated in the
16 publication. For a period of thirty days after the date of such publication, any
17 persons in interest may contest the legality of the resolution or ordinance
18 authorizing such evidence of indebtedness and any provisions thereof made for
19 the security and payment thereof. After such thirty-day period, no one shall
20 have any cause or right of action to contest the regularity, formality, legality, or
21 effectiveness of the resolution or ordinance and the provisions thereof or of the
22 bonds, notes, or other evidence of indebtedness authorized thereby for any
23 cause whatsoever. If no suit, action, or proceeding is begun contesting the
24 validity of the bonds, notes, or other evidence of indebtedness authorized
25 pursuant to the resolution or ordinance within the thirty days prescribed in this
26 Subsection, the authority to issue the bonds, notes, or other evidence of
27 indebtedness, or to provide for the payment thereof, and the legality thereof,
28 and all of the provisions of the resolution or ordinance and the evidence of
29 indebtedness shall be conclusively presumed, and no court shall have authority

1 or jurisdiction to inquire into any such matter.

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

9 H. Monies in, credited to the account of, or to be received by the Fiscal
10 Administrator Revolving Loan Fund shall be expended in a manner consistent
11 with the terms and conditions of the loans made from the fund.

12 I. The repayment of principal of and interest on loans and other
13 obligations made to political subdivisions financed from the Fiscal
14 Administrator Revolving Loan Fund shall be deposited into the Fiscal
15 Administrator Revolving Loan Fund and may be used to finance loans and
16 obligations to other political subdivisions for which a fiscal administrator is
17 appointed pursuant to this Chapter, provided that reserves for expenditures for
18 the administration of the fund that the Department of the Treasury deems
19 necessary and prudent may be retained in the fund.

20 J. The Department of the Treasury shall be authorized to enter into
21 contracts and other agreements in connection with the operation of the fund
22 and the department is authorized to adopt rules and regulations in accordance
23 with the Administrative Procedure Act to implement the provisions of this
24 Section.

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

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

DIGEST

Dorsey-Colomb (SB 118)

Present law requires the legislative auditor, attorney general, and state treasurer, or their designees, to meet as often as necessary to review the financial stability of the state's political subdivisions.

Present law requires the attorney general to file a rule to appoint a fiscal administrator for the political subdivision, if the legislative auditor, the attorney general, and the state treasurer decide at a public meeting that a political subdivision is reasonably certain to: (a) not have sufficient revenue to pay current expenditures, excluding civil judgments, or (b) fail to make a debt service payment. Present law also provides that, upon notification by the state superintendent of education at the direction of the State Board of Elementary and Secondary Education (BESE), the attorney general shall file such a rule when he, the legislative auditor, and the state treasurer decide at a public meeting that a local public school board is reasonably certain to fail to resolve its status as financially at risk as that status is defined by BESE rule. Also provides that the failure of a political subdivision to provide an audit required by law to the legislative auditor for a period of three consecutive fiscal years shall remove automatically the political subdivision from the category of "financial stability" and shall be prima facie evidence that the political subdivision is reasonably certain not to have sufficient revenue to pay current expenditures, excluding civil judgments. Also provides that such failure by a local public school board automatically places that political subdivision in the category of "financially at risk" and shall be prima facie evidence that the political subdivision is reasonably certain to fail to resolve its status as financially at risk as that status has been defined by BESE rule.

Present law requires that costs and expenses associated with fiscal administration of a political subdivision, including those incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and other persons, shall be borne by the political subdivision.

Proposed law provides for the establishment of a revolving fund in the state treasury to be known as the "Fiscal Administrator Revolving Loan Fund" hereinafter referred to as the "fund", which shall be maintained and operated by the Department of the Treasury. Provides that the source of monies deposited in and credited to the fund shall be all grants, gifts, and donations received by the state for the purpose of funding fiscal administrators; any money appropriated by the legislature to the fund; the repayment of principal of and interest on loans and other obligations made to political subdivisions financed from the fund; and other revenues as may be provided by law.

Proposed law provides that money in the fund shall be invested by the treasurer in the same manner as money in the state general fund. Interest earned on the investment of the money in the fund shall be credited to the fund after compliance with the requirements of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund. All unexpended and unencumbered money in the fund at the end of a fiscal year shall remain in the fund.

Proposed law authorizes any political subdivision for which a fiscal administrator is in the process of being appointed or which has been appointed as provided in present law, to borrow money from and incur debt payable to the fund in accordance with the provisions of proposed law. Such borrowing shall be subject to the approval of:

- (1) The legislative auditor, the attorney general, and the state treasurer.
- (2) The fiscal administrator, if one has been appointed by the court.

- (3) The district court having jurisdiction over the fiscal administration.
- (4) The State Bond Commission.

Proposed law provides that the monies in the fund shall be appropriated and used only for the purpose of providing financial assistance to a political subdivision for which a court has appointed a fiscal administrator as provided in this Chapter by providing a source of funds from which the political subdivision may borrow in order to pay the costs and expenses associated with the independent fiscal administration of the political subdivision, including but not limited to all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

Proposed law provides that each loan shall be evidenced by a bond, note, or other evidence of indebtedness of the borrower issued to represent an obligation to repay a loan from the fund and shall be authorized and issued pursuant to a resolution or ordinance of the governing authority of such entity. Proposed law provides that the resolution or ordinance shall provide the details of the loan, and shall set forth the maximum principal amount, the maximum interest rate, which shall be at an interest rate that is less than or equal to the market interest rate, as determined by the Department of the Treasury, the maximum redemption premium, if any, and the maximum term of such indebtedness.

Proposed law provides for the publication of the resolution or ordinance in the official journal and provides that for a period of 30 days after the date of such publication, any persons in interest may contest the legality of the resolution or ordinance authorizing such evidence of indebtedness and any provisions thereof made for the security and payment thereof. After such 30-day period no one shall have any cause or right of action to contest the resolution or ordinance and the provisions thereof or of the bonds, notes, or other evidence of indebtedness and the authority to issue the bonds, notes, or other evidence of indebtedness, or to provide for the payment thereof, and the legality thereof, and all of the provisions of the resolution or ordinance and such evidence of indebtedness shall be conclusively presumed, and no court shall have authority or jurisdiction to inquire into any such matter.

Proposed law provides that the Department of the Treasury may by suit, action, mandamus, or other proceedings, protect and enforce any covenant relating to and the security provided in connection with any indebtedness issued pursuant to proposed law, and may enforce and compel performance of all of the duties required to be performed by the governing body and officials of any borrower hereunder and in any proceedings authorizing the issuance of such bonds or other evidences of indebtedness.

Proposed law provides that monies in, credited to the account of, or to be received by the Fiscal Administrator Revolving Loan Fund shall be expended in a manner consistent with the terms and conditions of the loans made from the fund.

Proposed law provides that the repayment of principal of and interest on loans and other obligations made to political subdivisions financed from the fund shall be deposited into the fund and may be used to finance loans and obligations to other political subdivisions for which a fiscal administrator is appointed pursuant to present law, provided that reserves for expenditures for the administration of the fund that the Department of the Treasury deems necessary and prudent may be retained in the fund.

Proposed law authorizes the Department of the Treasury to enter into contracts and other agreements in connection with the operation of the fund and to adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 39:1357)