

Regular Session, 2014

HOUSE BILL NO. 979

BY REPRESENTATIVE ST. GERMAIN

TRANSPORTATION: Provides for the creation of the Louisiana Transportation Infrastructure Bank

1 AN ACT

2 To amend and reenact R.S. 48:77(B)(2) and to enact Chapter 18 of Title 32 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 32:1801 through 1806, relative to
4 the Department of Transportation and Development; to create the Louisiana
5 Transportation Infrastructure Bank; to provide for a board of directors; to provide for
6 membership, duties, and authority of the board; to provide for the adoption of
7 bylaws, rules, and regulations by the board; to provide for the receipt, administration,
8 and expenditure of federal grants allotted for the fund; to create and provide for the
9 capitalization of the Louisiana Transportation Infrastructure Fund, investment, and
10 disposition of the funds; to authorize the bank to incur debt and issue bonds, notes,
11 or other evidences of indebtedness and to guarantee the debt of other entities; to
12 authorize loans from the fund to local governments, political subdivisions, and public
13 entities; to provide procedures for political subdivisions to enter into such
14 indebtedness; to exempt evidence of indebtedness from taxation; and to provide for
15 related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. Chapter 18 of Title 32 of the Louisiana Revised Statutes of 1950, to be
18 comprised of R.S. 32:1801 through 1805, is hereby enacted to read as follows:

19 Chapter 18. LOUISIANA TRANSPORTATION INFRASTRUCTURE BANK

1 §1801. Louisiana Transportation Infrastructure Bank; purposes; establishment,
2 capitalization of fund; disposition of monies; administration

3 A. In order to continue to provide transportation funds to municipalities,
4 other political subdivisions, and other public entities for the planning, design,
5 construction, and maintenance connected with transportation programs, it is the
6 purpose of this Chapter to do the following:

7 (1) Provide for the establishment and administration of a transportation
8 infrastructure bank to make loans and provide other assistance to public entities
9 carrying out or proposing to carry out eligible transportation projects and enter into
10 such cooperative agreements, interstate compacts, and cooperative endeavor
11 agreements as may be necessary and proper to fulfill the purposes of the Chapter.

12 (2) Provide for the receipt, administration, and use by the transportation
13 infrastructure bank of federal funds contributed to it pursuant to federal law, rule, or
14 regulation, funds appropriated or otherwise provided by the state or any local
15 governing authority, and funds derived or contributed from, or otherwise provided
16 by, any other sources.

17 (3) Authorize the transportation infrastructure bank to establish and
18 administer a revolving fund for eligible transportation projects and to use the sums
19 on deposit in, credited to, or otherwise received by the infrastructure bank for the
20 purposes provided in this Section.

21 B. The following terms as used in this Chapter shall have the following
22 meanings:

23 (1) "Department" means the Department of Transportation and
24 Development.

25 (2) "Eligible transportation project" means a plan or proposal approved by
26 the department which would require or use funds or other assistance provided by the
27 infrastructure bank, whether a transportation infrastructure bank loan or other
28 assistance in accordance with applicable federal provisions, to construct, improve,
29 or maintain a transportation project on the state highway system or that provides for

1 increased mobility on the state transportation system or provides intermodal
2 connectivity with airports, seaports, rail facilities, and other transportation terminals
3 for the movement of people and goods.

4 (3) "Infrastructure bank" means the Louisiana Transportation Infrastructure
5 Bank provided for in this Chapter.

6 (4) "Infrastructure bank loan" means any bond, note, or other evidence of
7 indebtedness, or a commitment, pledge, loan, letter of credit, guarantee, subsidy, or
8 other obligation of any public entity for an eligible transportation project.

9 §1802. Louisiana Transportation Infrastructure Bank; structure; powers; duties

10 A. There is hereby established within the Department of the Treasury the
11 Louisiana Transportation Infrastructure Bank, which shall be allocated to the
12 Department of the Treasury as an agency of the state in accordance with the
13 provisions of Article IV, Section 1 and Article XIV, Section 6 of the Constitution of
14 Louisiana.

15 B.(1) The Louisiana Transportation Infrastructure Bank shall be governed
16 by a board of directors, referred to as "the board", composed of the following
17 members:

18 (a) The secretary of the Department of Transportation and Development.

19 (b) The state treasurer.

20 (c) The chairman of the Senate Committee on Transportation, Highways, and
21 Public Works.

22 (d) The chairman of the House Committee on Transportation, Highways, and
23 Public Works.

24 (e)(i) One member appointed by a majority of the other members enumerated
25 in the Subsection from among three nominees who shall be nominated by the
26 Louisiana Bankers Association and who shall possess no less than five years
27 experience in commercial lending or investment banking practices.

1 (ii) The member selected pursuant to this Subsection shall serve a three year
2 term. A vacancy in this position shall be filled in the manner provided in Item (i) of
3 this Subparagraph for the remainder of the three year term.

4 (f)(i) One member appointed by the board members of the State Board of
5 Certified Public Accountants of Louisiana and who shall possess no less than five
6 years experience in professional accounting and auditing standards for financial
7 accounting, management, and reporting.

8 (f)(ii) The member appointed pursuant to this Subsection shall serve a three
9 year term. A vacancy in this position shall be filled in the manner provided in Item
10 (i) of this Subparagraph for the remainder of the three year term.

11 (g)(i) One member appointed by the governor from the board of directors of
12 the Louisiana Good Roads and Transportation Association with no less than five
13 years experience in transportation program planning.

14 (g)(ii) The member appointed pursuant to this Subsection shall serve a three
15 year term. A vacancy in this position shall be filled in the manner provided in Item
16 (i) of this Subparagraph for the remainder of the three year term.

17 (2) The board shall adopt bylaws for its own internal organization and
18 government, including the election of officers and conduct of meetings in accordance
19 with the Louisiana Open Meetings Law, R.S. 42:11 et seq.

20 (3) The board shall promulgate rules and regulations, in accordance with the
21 Administrative Procedure Act, R.S. 49:950 et seq, for the appointment and
22 responsibilities of committees; review, consideration, and approval or rejection of
23 applications for infrastructure bank loans; and the administration of the infrastructure
24 bank and the fulfillment of any and all responsibilities and duties and exercise of any
25 rights and authority of such infrastructure bank as provided in this Chapter.

26 (4) The state treasurer shall serve as chairman of the infrastructure bank and
27 the board may select such other officers as it may deem necessary.

28 C. The board shall have authority and responsibility for reviewing and acting
29 to approve or deny any application for infrastructure bank loans or other assistance,

1 made by any public entity for an eligible transportation project. No application for
2 any infrastructure bank loan or other assistance, shall be made without prior approval
3 of the proposed transportation project by the department. The department shall have
4 the sole discretion, authority, and control over all aspects of the review of any and
5 all construction, engineering, and related technical aspects of such transportation
6 projects.

7 D. Following the close of each state fiscal year, the legislature shall receive
8 an annual report of infrastructure bank applications and approved transportation
9 projects. The infrastructure bank shall submit an annual report to the appropriate
10 federal agency in accordance with requirements of any federal program.

11 E. The infrastructure bank shall have the powers necessary or convenient to
12 carry out its mission and the purpose described in this Chapter, including the
13 following:

14 (1) To sue and be sued.

15 (2) To adopt an official seal and alter the same at its pleasure.

16 (3) To appoint an executive director to administer the affairs of the
17 infrastructure bank, who shall be appointed to serve at the pleasure of the board of
18 directors of the infrastructure bank.

19 (4) To make and execute contracts and other agreements, instruments, and
20 documents necessary or convenient for the exercise of its powers and functions under
21 this Chapter, with any federal or state government agency, local government,
22 political subdivision, or other public or private entity, and to act in furtherance of its
23 interests therein, including but not limited to credit enhancement devices, guarantees,
24 pledges, interest rate swap agreements, contracts, and agreements with federal
25 agencies, political subdivisions, public trusts, departments, boards, agencies,
26 commissions of the state, and other parties to the extent necessary or convenient for
27 the implementation of the purpose of infrastructure bank as provided for in this
28 Chapter.

1 (5) To receive and administer grants from the federal government or its
2 agencies allotted to the state for the capitalization of the state transportation
3 infrastructure bank or revolving loan or investment fund, state funds when required
4 or otherwise made available, or any other funds or property loaned, granted, or
5 donated or otherwise provided for the purposed provided for in this Chapter. Subject
6 to compliance with the terms of a federal or state grant, if any, and other applicable
7 state or federal law, rule, or regulation.

8 (6) To make loans from federal funds or funds on deposit in, credited to, or
9 to be received by the infrastructure bank, provided that no transportation project shall
10 be considered by the infrastructure bank without prior approval of the department
11 and interest on such loans shall be at or below market interest rates for a period not
12 to exceed five years from the completion of the construction of an eligible
13 transportation project.

14 (7) To offer and to make or enter into loan guarantees, letters of credit, or
15 other forms of assistance for eligible transportation projects.

16 (8) To provide payments to reduce interest on loans and loan guarantees for
17 eligible transportation projects.

18 (9) To make bond interest subsidies for bonds issued to fund eligible
19 transportation projects.

20 (10) To provide bond guarantees to any public entity for eligible
21 transportation projects.

22 (11) To provide assistance to any parish, municipality, or other local political
23 subdivision with respect to the non-federal share of the costs of eligible
24 transportation projects.

25 (12) To finance the cost of and the preparation of plans, specifications, and
26 estimates for construction of publicly owned eligible transportation projects.

27 (13) To finance the cost of purchase or lease agreements related to eligible
28 transportation projects.

1 (14) To secure the principal, interest, and premium, if any, on bonds or other
2 evidence of indebtedness issued for an eligible transportation project, provided that
3 the proceeds of such bonds are:

4 (a) Deposited in the infrastructure bank.

5 (b) Used only to pay for an eligible transportation project or to refund any
6 obligation the proceeds of which are used to pay for an eligible transportation project
7 to the extent provided and allowed by the terms of a federal grant, or the terms of any
8 other type of loan, grant, or donation received for the purposed provided for in this
9 Chapter.

10 (15) To improve credit market access by guaranteeing, arranging, or
11 purchasing bond insurance or other credit enhancement devices for debt obligations
12 issued for an eligible transportation project.

13 (16) To fund any other programs which the federal government authorizes
14 by the terms of grants made for the fund or made for purposes for which the fund is
15 authorized.

16 (17) To provide for any other expenditure consistent with a federal grant
17 program and state law.

18 (18) To enter into contracts with participating entities through which such
19 parties may agree to share in the costs of operating the infrastructure bank.

20 (19) To establish, by rule, a schedule of reasonable fees and charges to pay
21 the costs of administering the infrastructure bank.

22 E. No money in the fund may be expended or otherwise used, nor any bonds
23 or other evidences of indebtedness or other obligations issues or insured for any
24 specific transportation project or for any payment, expenditure, commitment, pledge,
25 loan, letter of credit, guarantee, subsidy, or other activity related to transportation
26 projects or the financing thereof without the prior written approval of the State Bond
27 Commission.

28 §1803. Louisiana Transportation Infrastructure Fund; creation; sources of
29 capitalization; authorizing and issuing debt

1 A. The Louisiana Transportation Infrastructure Fund is hereby established
2 and shall be maintained and operated by the board of directors of the Louisiana
3 Transportation Infrastructure Bank so authorized to administer a revolving fund for
4 eligible transportation projects and to use the sums on deposit in, credited to, or
5 otherwise received by the infrastructure bank for the purpose provided in this
6 Chapter. The Louisiana Transportation Infrastructure Fund shall provide assistance
7 to eligible recipients for eligible transportation projects of the Louisiana
8 Transportation Infrastructure Bank as may be permitted by the federal act or federal
9 regulations and by this Chapter.

10 B.(1) Money needed for the operation of the infrastructure bank or otherwise
11 dedicated shall be invested by the state treasurer as provided by law for the
12 investment of other state funds, except as may be limited by federal law or the terms
13 and conditions of any grant, related to money deposited in the revolving loan fund.

14 (2) Sources used to capitalize the Louisiana State Infrastructure Bank Fund
15 include but are not limited to the following:

16 (a) Investments by the state treasurer as provided by law for the investment
17 of other state funds.

18 (b) Seven percent of the remainder of total avails deposited in the
19 Transportation Trust Fund pursuant to R.S. 48:77(B)(2).

20 (c) Revenue generated from the increase of commercial motor vehicle
21 registration fees as dedicated as provided by law.

22 C.(1) Notwithstanding any provision of the law to the contrary, and in
23 addition to the authority to lend or borrow money or incur or guarantee indebtedness
24 provided by any other provisions of the law, sums on deposit in and credited to the
25 Louisiana Transportation Infrastructure Bank Fund may be loaned to parishes,
26 municipalities, and other political subdivision of the state, or other public entities for
27 use in connection with eligible transportation projects. However, this Section shall
28 not be deemed to be the exclusive authority under which parishes, municipalities, or
29 other political subdivision, or other political entities, may borrow money or incur
30 indebtedness.

1 (2) Parishes, municipalities, or political subdivisions may enter into
2 infrastructure bank loans in accordance with this Section, provided that no such loan
3 shall be made nor debt evidencing such loan by any parish, municipality, or other
4 political subdivision shall be issued or incurred without the prior approval of the
5 State Bond Commission.

6 §1804. Louisiana Transportation Infrastructure Fund; security; interest rates; tax
7 exemption

8 A. All bonds, notes, or other evidence of indebtedness of any parish,
9 municipality, or other political subdivision issued to represent an infrastructure bank
10 loan shall be authorized and issued pursuant to a resolution of the governing
11 authority of such entity. Such resolution shall prescribe the form and details thereof,
12 including the terms, security for, manner of execution, repayment schedule, and
13 redemption features thereof and such resolution may provide that an officer of such
14 entity may execute in connection with such obligation any related contract, including
15 but not limited to a credit enhancement device, indenture of trust, loan or pledge
16 agreement, or any other agreement or contract needed to accomplish the purposed
17 for which said resolution, but which final executed credit enhancement device,
18 indenture or trust, loan or pledge agreement, or other contract or agreement may
19 contain such changes, additions and deletions as shall in the sole opinion of the
20 executing officer be appropriate under the circumstances. Any such resolution shall
21 include a statement as to the maximum principal amount of any such obligation, the
22 maximum interest rate to be incurred or borne by said obligation or guaranteed by
23 said obligation, the maximum redemption premium, if any, and the maximum term
24 in years for such obligation, guarantee, or pledge.

25 B. Notwithstanding any other provision of law to the contrary, a parish,
26 municipality, or other local political subdivision, upon entering into an infrastructure
27 bank loan as provided in this Chapter, may dedicate and pledge a portion of any
28 revenues it has available to it, including but not limited to revenues from the general
29 revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem
30 property taxes of the parish, municipality, or other local political subdivision for a

1 term not exceeding five years from the date of project completion for repayment of
2 the principal of, interest on, and any premium, administrative fee or other fee or cost
3 incurred, in connection with such loan.

4 C. Any evidence of indebtedness authorized pursuant to this Chapter shall
5 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the
6 resolution authorizing and providing for the issuance thereof. Any such rate or rates
7 of interest may be at fixed, variable, or adjustable rates.

8 D. The general laws of the state governing fully registered securities of
9 public entities shall be applicable to the bonds, notes, or other evidence of
10 indebtedness issued pursuant to this Section.

11 E. Any resolution authorizing an infrastructure bank loan pursuant to this
12 Section shall be published once in the official journal of the parish, municipality, or
13 other political subdivision incurring such loan. It shall not be necessary to publish
14 exhibits to any such resolution, but such exhibits shall be made available for public
15 inspection at the offices of the governing authority of the parish, municipality, or
16 other political subdivision at reasonable times and such fact must be stated in the
17 publication within the official journal. For a period of thirty days after the date of
18 such publication, any person in interest may contest the legality of the resolution
19 authorizing such evidence of indebtedness or other infrastructure bank loan and any
20 provision thereof made for the security and payment thereof. After the thirty day
21 period, no one shall have any cause or right of action to contest the regularity,
22 formality, legality, or effectiveness of said resolution and the provisions thereof or
23 of the bonds, notes, or other evidence of indebtedness or other infrastructure bank
24 loan, or to provide for the payment thereof, or the legality thereof, and all of the
25 provisions of the resolutions and such evidence of indebtedness shall be conclusively
26 presumed, and no court shall have authority or jurisdiction to inquire into any such
27 matter.

28 F. Bonds, notes, or other evidence of indebtedness issued or any
29 infrastructure bank loan entered into under authority of this Section shall be exempt
30 from all taxation for state, parish, municipal, or other purposes. Such bonds, notes,

1 or other evidence of indebtedness or infrastructure bank loans may be used for
2 deposit with any officer, board, municipality, or other political subdivision of the
3 state, in any case where, by present or future laws, deposit of security is requires for
4 state funds.

5 §1805. General power to issue and incur debt; to issue and undertake guarantees and
6 the debt of other entities

7 A. The infrastructure bank may issue, incur, and deliver debt evidenced by
8 bonds, notes, or other evidences of indebtedness, payable from or secured by sums
9 deposited in, credited to, or to be received in the infrastructure bank. The
10 infrastructure bank is further authorized to undertake and to issue and deliver
11 evidenced of its guarantee of the debt of other entities and is authorized to enter into
12 and execute pledges of the sums deposited in, credited to, or to be received by the
13 infrastructure banks, including payments pursuant to letters of credit, to secure the
14 debt or performances of obligation entities for eligible transportation projects. Such
15 bonds, notes, or other evidences of indebtedness, such guarantees, and such pledges
16 issued and delivered pursuant to this authority shall constitute special and limited
17 obligations of the infrastructure bank and shall not be secured by the full faith and
18 credit of the state or any source of revenue of the state other than those sums on
19 deposit in, credited to, or to be received by the infrastructure bank, including
20 payments to be made pursuant to letters of credit.

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

25 C. Withdrawal from the fund tp pay debt service on any bond, note, or other
26 evidence of indebtedness, obligation of guarantee of any debt, or pledge to secure
27 any debt, does not constitute and shall not be subject to annual appropriation by the
28 legislature as provided to Article III, Section 16 of the Constitution of Louisiana.

a revolving loan fund, to be capitalized by federal grants, state funds when required or available, and other funds generated by the operation of the fund.

Proposed law provides for a board of directors to include the secretary of the Dept. of Transportation and Development, the state treasurer, the chairmen of the House and Senate committees on transportation, and one representative of the banking industry for a three-year term chosen by the directors from a list of three provided by the Louisiana Banker's Association, one representative of the accounting industry for a three-year term chosen by the board members of the State Board of Certified Public Accountants of Louisiana, one member appointed by the governor for a three-year term from the board of directors of the Louisiana Good Roads and Transportation Association.

Proposed law authorizes the board to establish, administer, maintain, and operate the fund as the "transportation infrastructure bank" and authorizes the bank to issue and incur debt, to guarantee debt issued by other entities and to secure the debt of other entities in order to fund eligible transportation projects.

Proposed law provides for the creation of the revolving Louisiana Transportation Infrastructure Fund to be maintained and operated by the board of directors of the Louisiana Transportation Infrastructure Bank so authorized to administer the fund for eligible transportation projects and to use the sums deposited in, credit to, otherwise received by the bank for the purpose provided therein.

Proposed law provides for the investment by the state treasurer as provided by law for the investment of other state funds.

Proposed law provides for capitalization of the fund to include but not limited to:

- (1) Investment by the state treasurer as provided by law for the investment of other state funds.
- (2) Seven percent of the remainder of avails deposited in the Transportation Infrastructure Trust Fund.
- (3) Revenue generated from the increase of commercial motor vehicle registration fees as dedicated as provided by law.

Proposed law requires the board of directors to adopt bylaws for its internal organization and government and to adopt rules and regulations to provide for approval or rejection of loan applications, administration of the bank, and related matters.

Proposed law requires annual reporting of all applications and approved loans to the legislature and any federal agency required by federal law.

Proposed law fully authorizes the bank to review, accept, or deny all loan applications made by any public entity, but requires that all projects have prior approval of the Department of Transportation and Development. The department shall have sole discretion, authority, and control over all aspects of the review of any and all construction, engineering, and related technical aspects of such transportation projects.

Proposed law requires the state treasurer to serve as chairman of the board.

Proposed law authorizes the infrastructure banks as follows:

- (1) To sue and be sued.
- (2) To adopt and alter an official seal.
- (3) To appoint an executive director.

- (4) To receive, administer, and expend grants from the federal government.
- (5) To make loans at or below market interest rates.
- (6) To guarantee loans.
- (7) To provide interest reduction on loans and loan guarantees.
- (8) To make bond interest subsidies.
- (9) To provide bond guarantees to local governments and political subdivisions.
- (10) To assist with non-federal share of the cost of a local government or political subdivision project.
- (11) To secure bonds or other evidence of indebtedness of proceeds of the bonds are deposited in the fund, are used to pay for a project approved by the department, or are used to refund any obligation the proceeds of which are used to pay for an approved project.
- (12) To improve credit market access.
- (13) To fund programs authorized by the federal government.
- (14) To provide for any other expenditure consistent with the federal grant and state law.
- (15) To enter into contracts with such parties to share costs of operation of the bank.
- (16) To establish fees and charges for administration of the bank.

Proposed law requires that loans made from the fund and any other action by the department on behalf of a transportation project receive State Bond Commission approval.

Proposed law requires investment by the state treasurer of money dedicated to the operation of the infrastructure bank and requires all such interest on investments be credited to the bank.

Proposed law requires that a governing authority of a political subdivision which secures a loan from the fund shall provide a resolution which prescribes the details of the loan and authorizes an officer of the entity to execute a contract in conjunction with the loan.

Proposed law authorizes a political subdivision to dedicate a portion of its revenues for repayment of any portion of the loan.

Proposed law provides for the sale, advertisement, and contesting of bonds, notes, or other evidence of indebtedness of a political subdivision and exempts such bonds, notes, and other evidence of indebtedness from taxation for state, parish, municipal, or other purposes.

Proposed law provides that the debt will not be considered net state tax supported debt for purposes of the debt limitation.

Proposed law provides that no appropriation is needed in order to pay debt service.

Proposed law provides that funds expended under proposed law shall be exclusively for public purposes and prohibits the use of such funds to benefit any private entity.

Effective upon signature of the governor.

(Amends, R.S. 48:77(B)(2), Adds R.S. 32:1801-1806)