

Regular Session, 2011

HOUSE BILL NO. 370

BY REPRESENTATIVES JANE SMITH, BURFORD, HENRY BURNS, BURRELL, CARMODY, CHANDLER, DOERGE, MORRIS, NORTON, SEABAUGH, AND WILLIAMS AND SENATORS ALARIO, BROOME, CHEEK, JACKSON, LAFLEUR, LONG, MICHOT, NEVERS, SHAW, AND WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 9:165(C)(2)(introductory paragraph) and (a) and to enact R.S.
3 9:165.1 and 165.2, relative to issuance of bonds; to authorize the State Bond
4 Commission to issue bonds secured by monies deposited into the Unclaimed
5 Property Leverage Fund for completion of I-49; to provide for the use of the
6 proceeds of the bonds; to provide for certain requirements and limitations on the
7 issuance of bonds; to provide for a procedure to contest the validity of issuance of
8 the bonds; to provide for the rights of bondholders; to authorize the issuance of
9 refunding bonds; to designate the first I-49 North Unclaimed Property Bond
10 financed project; to provide for effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 9:165(C)(2)(introductory paragraph) and (a) are hereby amended and
13 reenacted and R.S. 9:165.1 and 165.2 are hereby enacted to read as follows:

14 §165. Deposit of funds

15 A.

16 * * *

17 C.(1)

18 * * *

19 (2) Monies appropriated from the funds shall ~~only~~ be expended only in
20 accordance with the provisions of this Paragraph:

21 (a) ~~For transfer to the Louisiana Transportation Authority, hereinafter~~
22 ~~referred to as the "authority", to pay the principal and interest of unclaimed property~~

1 §165.1. Bonds; Unclaimed Property Bonds; Completion of I-49

2 A.(1) Without reference to any provision of the Constitution of Louisiana
3 and the laws of Louisiana, and as a grant of power in addition to any other general
4 or special law, the State Bond Commission, hereinafter "commission", is hereby
5 authorized to issue unclaimed property bonds, hereinafter referred to as "unclaimed
6 property bonds" or "bonds", for the I-49 Project and pledge for the payment of the
7 principal and interest of the unclaimed property bonds monies deposited or to be
8 deposited into the Unclaimed Property Leverage Fund, which pledge shall be subject
9 to the appropriation of funds by the legislature. The commission is further
10 authorized, in its discretion, to pledge all or any part of any gift, grant, donation, or
11 other sum of money, aid, or assistance from the United States, the state, or any
12 political subdivision, thereof, unless otherwise restricted by the terms thereof, all or
13 any part of the proceeds of bonds, credit agreements, instruments, or other money of
14 the commission, from whatever source derived, for the further securing of the
15 payment of the principal and interest of the bonds, including any monies provided
16 to the commission from the Department of Transportation and Development. Any
17 bonds shall be payable solely from revenues and bond proceeds, pending their
18 disbursement and investment income thereon.

19 (2) The unclaimed property receipts which have been deposited into the
20 Unclaimed Property Leverage Fund shall be applied to pay or provide for the
21 payment of debt service and all related costs and expenses associated therewith on
22 unclaimed property bonds issued by the commission. At no time shall bond
23 payments securitized by unclaimed property receipts in the Unclaimed Property
24 Leverage Fund exceed fifteen million dollars per year.

25 (3) The resolution or resolutions under which unclaimed property bonds are
26 authorized to be issued may contain any or all of the following:

27 (a) Provisions respecting custody of the proceeds from the sale of the bonds,
28 including any requirements that such proceeds be held separate from or not be
29 commingled with other funds of the state.

1 (b) Provisions for the investment and reinvestment of unclaimed property
2 bond proceeds until used to pay the costs of financing such unclaimed property
3 bonds and for the disposition of any excess bond proceeds or investment earnings
4 thereon.

5 (c) Provisions for the execution of reimbursement agreements or similar
6 agreements in connection with credit facilities, including but not limited to letters of
7 credit or policies of bond insurance, remarketing agreements, and credit
8 enhancement devices, for the purpose of moderating interest rate fluctuations.

9 (d) Provisions for the collection, custody, investment, reinvestment, and use
10 of the pledged revenues or other receipts, funds, or monies pledged therefor and
11 deposited in the Unclaimed Property Leverage Fund.

12 (e) Provisions regarding the establishment and maintenance of reserves,
13 sinking funds, and any other funds, and accounts as shall be approved by the
14 commission in such amounts as may be established by the commission, and the
15 regulation and disposition thereof, including requirements that any such funds and
16 accounts be held separate from or not be commingled with other funds.

17 (f) Covenants for the establishment of pledged revenue coverage
18 requirements for the unclaimed property bonds.

19 (g) Provisions for the issuance of additional unclaimed property bonds on a
20 parity with unclaimed property bonds theretofore issued, including establishment of
21 coverage requirements with respect thereto.

22 (h) Provisions or covenants of like or different character from the foregoing
23 which are determined in such proceedings as necessary, convenient, or desirable in
24 order to better secure the unclaimed property bonds, or will tend to make the
25 unclaimed property bonds more marketable, and which are in the best interests of the
26 commission.

27 B. Bonds issued under the provisions of this Section shall not be deemed to
28 constitute a pledge of the full faith and credit of the state or of any governmental unit
29 thereof. All such bonds shall contain a statement on their face substantially to the
30 effect that neither the full faith and credit of the state nor the full faith and credit of

1 any public entity of the state are pledged to the payment of the principal of or the
2 interest on such bonds. The issuance of bonds under the provisions of this Section
3 shall not directly, indirectly, or contingently obligate the state or any governmental
4 unit of the state to levy any taxes whatever therefor or to make any appropriation for
5 their payment, other than obligations to make payments by the state or any public
6 entity to the commission arising out of contracts, including without limitation the
7 bonds, the bond resolution, and trust indentures authorized under this Section.

8 C. Bonds shall be authorized by a resolution of the commission and shall be
9 of such series, bear such date or dates, mature at such time or times, bear interest at
10 such rate or rates, including but not limited to fixed, variable, or zero rates, be
11 payable at such time or times, be in such denominations, be in such form, carry such
12 registration and exchangeability privilege, be payable in such medium of payment
13 and at such place or places, be subject to such terms of redemption prior to maturity
14 at such price or prices as determined by the commission, and be entitled to such
15 priority on the revenues as such resolution or resolutions may provide.

16 D. Bonds shall be sold by the commission at public sale by competitive bid
17 or negotiated by private sale and at such price as the commission may determine to
18 be in the best interest of the commission.

19 E. The issuance of unclaimed property bonds shall not be subject to any
20 limitations, requirements, or conditions contained in any other law, and bonds may
21 be issued without obtaining the consent of the state or any political subdivision, or
22 of any agency, commission, or instrumentality thereof, except that bonds issued
23 hereunder shall be included in the calculation of "net state tax supported debt" as
24 defined in R.S. 39:1367.

25 F. For a period of thirty days after the date of publication of a notice of intent
26 to issue bonds in the official journal of the state authorizing the issuance of bonds
27 hereunder, any person in interest shall have the right to contest the legality of the
28 resolution and the legality of the bond issue for any cause, but after that time no one
29 shall have any cause or right of action to contest the legality of the resolution or of
30 the bonds or the security therefor for any cause whatsoever. If no suit, action, or

1 proceeding is begun contesting the validity of the resolution, the bonds or the
2 security therefor within the thirty days herein prescribed, the commission to issue the
3 bonds and to provide for the payment thereof, the legality thereof, and of all of the
4 provisions of the resolution authorizing the issuance of the bonds shall be
5 conclusively presumed to be legal and shall be incontestable. Any notice of intent
6 so published shall set forth in reasonable detail the purpose of the bonds, the security
7 therefor, and the parameters of amount, duration, and interest rates. The commission
8 may designate any paper of general circulation in its geographical jurisdiction to
9 publish the notice of intent or may utilize electronic media available to the general
10 public. Any suit to determine the validity of bonds issued by the commission shall
11 be brought only in accordance with the provisions of R.S. 13:5121 et seq.

12 G. All bonds issued pursuant to this Section shall have all the qualities of
13 negotiable instruments under the commercial laws of the state.

14 H. Any pledge of revenues or other monies made by the commission shall
15 be valid and binding from the time when the pledge is made. The revenues or
16 monies so pledged and thereafter received by the commission shall immediately be
17 subject to the lien of such pledge without any physical delivery thereof or further act,
18 and the lien of any such pledge shall be valid and binding as against all parties
19 having claims of any kind in tort, contract, or otherwise against the commission
20 irrespective of whether such parties have notice thereof.

21 I. Neither the members of the commission nor any person executing the
22 bonds shall be liable personally for the bonds or be subject to any personal liability
23 or accountability by reason of the issuance thereof.

24 J. Bonds of the commission, their transfer, and the income therefrom shall
25 at all times be exempt from all taxation by the state or any political subdivision
26 thereof, and may or may not be exempt for federal income tax purposes. The bonds
27 issued pursuant to this Section shall be and are hereby declared to be legal and
28 authorized investments for banks, savings banks, trust companies, building and loan
29 associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds
30 shall be eligible to secure the deposit of any and all public funds of the state and any

1 and all public funds of municipalities, parishes, school districts, or other political
2 corporations or subdivisions of the state. Such bonds shall be lawful and sufficient
3 security for the deposits to the extent of their value. When any bonds shall have
4 been issued hereunder, neither the legislature, the commission, nor any other entity
5 may discontinue or decrease the revenues pledged to the payment of the bonds
6 authorized hereunder or permit to be discontinued or decreased the revenues in
7 anticipation of the collection of which such bonds have been issued, or in any way
8 make any change in the allocation and dedication of the revenues which would
9 diminish the amount of the revenues to be received by the commission, until all of
10 such bonds shall have been retired as to principal and interest, and there is hereby
11 vested in the holders from time to time of such bonds a contract right in the
12 provisions of this Section.

13 K. The commission may provide by resolution for the issuance of refunding
14 bonds pursuant to R.S. 39:1444 et seq.

15 L. The holders of any bonds issued hereunder shall have such rights and
16 remedies as may be provided in the resolution or trust agreement authorizing the
17 issuance of the bonds, including but not by way of limitation appointment of a
18 trustee for the bondholders and any other available civil action to compel compliance
19 with the terms and provisions of the bonds and the resolution or trust agreement.

20 M. Subject to the agreements with the holders of bonds, all proceeds of
21 bonds and all revenues pledged under a resolution or trust agreement authorizing or
22 securing such bonds shall be deposited and held in trust in a fund or funds separate
23 and apart from all other funds of the state. Subject to the resolution or trust
24 agreement, the trustee shall hold the same for the benefit of the holders of the bonds
25 for the application and disposition thereof solely to the respective uses and purposes
26 provided in such resolution or trust agreement.

27 N. The commission is authorized to employ all professionals it deems
28 necessary in the issuance of its bonds.

29 O. The commission shall be deemed to be a public entity for purposes of
30 Chapters 13, 13-A, 14, 14-A, 14-B, and 15-A of Title 39 of the Louisiana Revised

1 Statutes of 1950, as amended, which statutes shall apply to bonds of the commission,
2 provided that in the event of a conflict with the provisions of this Section, the
3 provisions of this Section shall control.

4 P.(1) The provisions of this Section shall become null, void, and of no effect
5 on the date that all bonds issued by the commission are paid or deemed paid in full
6 and are no longer considered outstanding or the Interstate 49 project is deemed
7 completed by the Department of Transportation and Development, whichever is
8 later.

9 (2) If bonds for this project are not sold by December 31, 2013, the
10 provisions of this Section shall become, null, void, and of no effect on January 1,
11 2014.

12 §165.2. Designates first I-49 Unclaimed Property Bond project; "Alvin B. Kessler
13 Memorial Highway"

14 The first project on I-49 North constructed utilizing financing with
15 Unclaimed Property Bonds shall be named and designated as the "Alvin B. Kessler
16 Memorial Highway". The Department of Transportation and Development shall erect
17 appropriate signage indicating this designation.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____