

Regular Session, 2012

HOUSE BILL NO. 783

BY REPRESENTATIVES FANNIN, ADAMS, BARRAS, BERTHELOT, BILLIOT, BROADWATER, HENRY BURNS, CHAMPAGNE, CHANEY, CONNICK, GEYMANN, GUILLORY, HARRISON, HAZEL, HENRY, HENSGENS, HOFFMANN, JAMES, JOHNSON, LAMBERT, LIGI, MONTOUCET, MORENO, JIM MORRIS, POPE, RITCHIE, ROBIDEAUX, THIBAUT, AND PATRICK WILLIAMS AND SENATORS KOSTELKA AND RISER

BONDS/STATE: Authorizes the issuance of bonds secured by monies in the State Highway Improvement Fund

1 AN ACT

2 To amend and reenact R.S. 48:196(A) and to enact R.S. 48:196.1, relative to the issuance
3 of bonds; to authorize the State Bond Commission to issue bonds secured by monies
4 in the State Highway Improvement Fund; to provide for the use of the proceeds of
5 the bonds; to provide for a special fund; to provide for certain requirements and
6 limitations on the issuance of bonds; to provide for a procedure to contest the
7 validity of issuance of the bonds; to provide for the rights of bondholders; to
8 authorize the issuance of refunding bonds; to provide for an effective date; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 48:196(A) is hereby amended and reenacted and R.S. 48:196.1 is
12 hereby enacted to read as follows:

13 §196. State Highway Improvement Fund

14 A. There is hereby created, as a special fund in the state treasury, the State
15 Highway Improvement Fund, hereinafter referred to as the "fund". The source of
16 monies in this fund shall be registration and license fees and taxes collected by the
17 state pursuant to R.S. 47:462, and as provided in R.S. 47:481, in such amounts as
18 remain after payment of amounts due on bonds and related expenses as provided in

1 the documents pursuant to which the bonds were issued under the provisions of R.S.
 2 48:196.1. Beginning July 1, 2007, and each fiscal year thereafter, after satisfaction
 3 of the requirements of the provisions of R.S. 48:196.1 and compliance with the
 4 requirements of Article VII, Section 9(B) of the Constitution of Louisiana, and after
 5 making the allocation for state highway fund No. 2, the treasurer shall deposit into
 6 the fund the following amounts:

7 (1) For Fiscal Year 2007-2008, twenty-five percent of such collections.

8 (2) For Fiscal Year 2008-2009, seventy-five percent of such collections.

9 (3) For Fiscal Year 2009-2010 and thereafter, all of the collections.

10 * * *

11 §196.1. Bonds

12 A. Notwithstanding any provision of law to the contrary, and as a grant of
 13 power in addition to any other general or special law, the State Bond Commission,
 14 hereinafter referred to as the "commission", on behalf of the Department of
 15 Transportation and Development, hereinafter referred to as the "department" may
 16 issue bonds, notes, certificates, or other evidences of indebtedness, hereinafter
 17 collectively referred to as the "bonds", for the purpose of funding projects set forth
 18 in this Section, and pledge monies in the State Highway Improvement Fund for the
 19 payment of the principal and interest of such bonds. The commission is further
 20 authorized, in its discretion, to pledge all or any part of any gift, grant, donation, or
 21 other sum of money, aid, or assistance from the United States, the state, or any
 22 political subdivision thereof, unless otherwise restricted by the terms thereof, all or
 23 any part of the proceeds of bonds, credit agreements, instruments, or any other
 24 money of the commission, from whatever source derived, for the further securing of
 25 the payment of the principal and interest of the bonds. Any bonds issued pursuant
 26 to the provisions hereof shall constitute revenue bonds under Article VII, Section 6
 27 of the Constitution of Louisiana, and such bonds shall be payable solely from an
 28 irrevocable pledge and dedication of the registration and license fees and taxes
 29 collected by the state and deposited into the State Highway Improvement Fund, or

1 other fees, rates, rentals, charges, grants, or other receipts or income derived by or
2 in connection with an undertaking, facility, project, or any combination thereof,
3 without a pledge of the full faith and credit of the state, hereinafter referred to as
4 "revenues".

5 B. In accordance with the provisions of Article VII, Section 9(A)(6) of the
6 Constitution of Louisiana, there is hereby established a special fund for the purpose
7 of providing for the securitization of any bonds which may be issued pursuant to the
8 provisions of this Section which shall include requirements for reserves and credit
9 enhancement devices, all as may be provided in any resolution, trust agreement,
10 indenture, or other instrument pursuant to which such bonds were issued. The fund
11 shall be administered by a trustee as designated by the State Bond Commission. The
12 source of monies for the fund shall be the registration and license fees and taxes on
13 trucks and trailers collected by the state pursuant to R.S. 47:462, and as provided in
14 R.S. 47:481. All revenues received from such registration license fees and taxes as
15 are necessary to provide for all requirements associated with the bonds as provided
16 in this Section shall be classified and set aside in a separately identifiable fund or
17 account outside of the state treasury but maintained by the state treasury and such
18 revenues shall be assigned and pledged to the trustee under the documents pursuant
19 to which the bonds were issued for the benefit of the holders of the bonds. Only after
20 satisfaction of all requirements of this Section shall any monies received by the state
21 from the registration and license fees and taxes on trucks and trailers pursuant to R.S.
22 47:462 and 481 be available for any other purposes, and specifically for the purposes
23 provided for in R.S. 48:196.

24 C. Bonds issued under the provisions of this Section shall not be deemed to
25 constitute a pledge of the full faith and credit of the state or of any governmental unit
26 thereof. All such bonds shall contain a statement on their face substantially to the
27 effect that neither the full faith and credit of the state nor the full faith and credit of
28 any public entity of the state are pledged to the payment of the principal of or the
29 interest on such bonds. The issuance of bonds under the provisions of this Section

1 shall not directly, indirectly, or contingently obligate the state or any governmental
2 unit of the state to levy any taxes whatsoever therefor or to make any appropriation
3 for their payment.

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

12 E. Bonds shall be sold by the commission at public sale by competitive bid
13 or negotiated private sale and at such price as the commission may determine to be
14 in the best interest of the commission and the state.

15 F. Except for the provisions of R.S. 39:1367, the issuance of the bonds shall
16 not be subject to any limitations, requirements, or conditions contained in any other
17 law, and bonds may be issued without obtaining the consent of any political
18 subdivision of the state or of any agency, commission, or instrumentality of the state.
19 The bonds shall be issued in compliance with the provisions of this Section.

20 G. For a period of thirty days after the date of publication of a notice of
21 intent to issue bonds in the official journal of the commission authorizing the
22 issuance of bonds hereunder, any person in interest shall have the right to contest the
23 legality of the resolution and the legality of the bond issue for any cause, but after
24 that time no one shall have any cause or right of action to contest the legality of the
25 resolution or of the bonds or the security therefor for any cause whatsoever. If no
26 suit, action, or proceeding is begun contesting the validity of the resolution, the
27 bonds or the security therefor within the thirty days herein prescribed, the authority
28 to issue the bonds and to provide for the payment thereof, the legality thereof, and
29 of all of the provisions of the resolution authorizing the issuance of the bonds shall

1 be conclusively presumed to be legal and shall be incontestable. Any notice of intent
2 so published shall set forth in reasonable detail the purpose of the bonds, the security
3 therefor, and the parameters of amount, duration, and interest rates. Any suit to
4 determine the validity of bonds issued by the commission shall be brought only in
5 accordance with the provisions of R.S. 13:5121 et seq.

6 H. All bonds issued pursuant to this Section shall have all the qualities of
7 negotiable instruments under the commercial laws of the state.

8 I. Any pledge of the revenues or other monies made by the commission shall
9 be valid and binding from the time when the pledge is made. The revenues or
10 monies so pledged and thereafter received by the commission shall immediately be
11 subject to the lien of such pledge without any physical delivery thereof or further act,
12 and the lien of any such pledge shall be valid and binding as against all parties
13 having claims of any kind in tort, contract, or otherwise against the commission
14 irrespective of whether such parties have notice thereof. Any trust agreement or
15 other instrument by which a pledge is created need not be filed or recorded except
16 in the official records of the commission.

17 J. Neither the members of the commission nor any person executing the
18 bonds shall be liable personally for the bonds or be subject to any personal liability
19 or accountability by reason of the issuance thereof.

20 K. Bonds of the commission, their transfer, and the income thereof shall at
21 all times be exempt from all taxation by the state or any political subdivision thereof,
22 and may or may not be exempt for federal income tax purposes. The bonds issued
23 pursuant to this Section shall be and are hereby declared to be legal and authorized
24 investments for banks, savings banks, trust companies, building and loan
25 associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds
26 shall be eligible to secure the deposit of any and all public funds of the state and any
27 and all public funds of municipalities, parishes, school districts, or other political
28 corporations or subdivisions of the state. Such bonds shall be lawful and sufficient
29 security for said deposits to the extent of their value. When any bonds shall have

1 been issued pursuant to Subsection A of this Section, neither the legislature, the state,
2 nor any other entity may act to impair any obligation or contract for the benefit of
3 the holders of the bonds or discontinue or decrease the fees, taxes, rates, or other
4 revenues pledged to the payment of the bonds authorized hereunder or permit to be
5 discontinued or decreased said revenues in anticipation of the collection of which
6 such bonds have been issued, or in any way make any change in the allocation and
7 dedication of any fee, rate, or other revenues which would diminish the amount of
8 the revenues to be received by the commission, until all such bonds shall have been
9 retired as to principal and interest, and there is hereby vested in the holders from
10 time to time of such bonds a contract right in the provisions of this Section.

11 L. The commission may provide by resolution for the issuance of refunding
12 bonds pursuant to R.S. 39:1444 et seq.

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

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

26 O. The commission is authorized to employ all professionals it deems
27 necessary in the issuance of the bonds.

28 P. The commission is authorized to enter into any and all agreements or
29 contracts, execute any and all instruments, and do and perform any and all acts

1 necessary, convenient, or desirable for the issuance of the bonds or to carry out any
 2 power expressly given in this Section.

3 Q. Any other provision of law to the contrary notwithstanding, any revenues
 4 deposited in the bond fund that are pledged to the repayment of any bonds issued in
 5 accordance with this Section may be collected and disbursed in accordance with the
 6 documents pursuant to which such bonds were issued.

7 Section 2. If any provision of this Act or the application thereof is held invalid, such
 8 invalidity shall not affect other provisions or applications of this Act which can be given
 9 effect without the invalid provisions or applications, and to this end the provisions of this
 10 Act are hereby declared severable.

11 Section 3. The provisions of this Act shall supersede any laws or parts of law in
 12 conflict.

13 Section 4. This Act shall become effective July 1, 2012; if vetoed by the governor
 14 and subsequently approved by the legislature, this Act shall become effective on July 1,
 15 2012, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Fannin

HB No. 783

Abstract: Authorizes the issuance of bonds secured by funds in the State Highway Improvement Fund.

Present law provides for the State Highway Improvement Fund of which the source of monies is registration and license fees and taxes on trucks and trailers.

Proposed law provides that the source of monies in the fund shall be those amounts as remain after payment of amounts due on bonds and related expenses any bonds issued under proposed law.

Proposed law provides for the La. State Bond Commission (commission), on behalf of the Dept. of Transportation and Development (department), to issue bonds, notes, certificates, or other evidences of indebtedness (bonds), for the purpose of funding projects set forth in present law, and pledge monies in the State Highway Improvement Fund for the payment of the principal and interest of such bonds. The commission is further authorized by proposed law, in its discretion, to pledge all or any part of any gift, grant, donation, or other sum of money, aid, or assistance from the U.S., the state, or any political subdivision thereof, unless otherwise restricted by the terms thereof, all or any part of the proceeds of bonds, credit agreements, instruments, or any other money of the commission, from whatever

source derived, for the further securing of the payment of the principal and interest of the bonds. Proposed law provides that any bonds issued pursuant to proposed law are revenue bonds under Art. VII, §6 of the Constitution of La., and are payable solely from an irrevocable pledge and dedication of the registration and license fees and taxes collected by the state and deposited into the State Highway Improvement Fund, or other receipts or income derived by or in connection with an undertaking, facility, project, or any combination thereof, without a pledge of the full faith and credit of the state, (hereinafter collectively revenues).

Proposed law provides that in accordance with the provisions of present constitution (Const. Art. VII, §9(A)(6)), exempting monies pledged in connection with revenue bonds from deposit in the treasury, a special fund is established for the purpose of providing for the securitization of any bonds which may be issued pursuant to the provision of proposed law. The fund shall be administered by a trustee as designated by the State Bond Commission. The source of monies for the fund shall be the registration and license fees and taxes on trucks and trailers. All revenues received from such registration license fees and taxes as are necessary to provide for all requirements associated with the bonds as provided in proposed law shall be classified and set aside in a separately identifiable fund or account outside of the state treasury but maintained by the state treasury, and such revenues shall be assigned and pledged to the trustee under the documents pursuant to which the bonds were issued for the benefit of the holders of the bonds. Only after satisfaction of all requirements of proposed law shall any monies received by the state from the registration and license fees and taxes on trucks and trailers be available for any other purposes and specifically for the provisions related to the State Highway Improvement Fund.

Proposed law provides that the bonds issued are not to be deemed to constitute a pledge of the full faith and credit of the state or of any governmental unit. The issuance of bonds under the provisions of proposed law do not directly, indirectly, or contingently obligate the state or any governmental unit of the state to levy any taxes or to make any appropriation for their payment.

Proposed law provides with respect to the authorization of bonds by a resolution of the commission and shall be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including but not limited to fixed, variable, or zero rates, be payable at such time or times, be in such denominations, be in such form, carry such registration and exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption prior to maturity at such price or prices as determined by the commission, and be entitled to such priority on the revenues as such resolution or resolutions may provide.

Proposed law provides that the bonds are to be sold by the commission at public sale by competitive bid or negotiated private sale and at such price as the commission may determine to be in the best interest of the commission and the state.

Proposed law provides that the issuance of the bonds are not subject to any limitations, except that the bonds are included in the calculation of "net state tax supported debt". Proposed law provides that for a period of 30 days after the date of publication of a notice of intent to issue bonds in the official journal of the commission authorizing the issuance of bonds, any person in interest shall have the right to contest the legality of the resolution and the legality of the bond issue for any cause, but after that time no one shall have any cause or right of action to contest the legality of the resolution or of the bonds or the security therefor for any cause whatsoever.

Proposed law provides that if no suit, action, or proceeding is begun contesting the validity of the resolution within 30 days, the authority to issue the bonds and to provide for the payment thereof shall be conclusively presumed to be legal and shall be incontestable.

Proposed law provides that all bonds issued pursuant to proposed law shall have all of the qualities of negotiable instruments under the commercial laws of the state.

Proposed law provides that any pledge of the revenues or other monies made by the commission shall be valid and binding from the time when the pledge is made. Any trust agreement or other instrument by which a pledge is created need not be filed or recorded except in the official records of the commission.

Proposed law provides that neither the member of the commission nor any person executing the bonds shall be liable personally for the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Proposed law provides that bonds of the commission, their transfer, and the income thereof are exempt from all taxation by the state or any political subdivision thereof, and may or may not be exempt for federal income tax purposes. The bonds issued pursuant to proposed law are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds are eligible to secure the deposit of any and all public funds of the state and any and all public funds of municipalities, parishes, school districts, or other political corporations or subdivisions of the state. Proposed law provides that when the bonds are issued, neither the legislature, the state, nor any other entity may act to impair any obligation or contract for the benefit of the holders of the bonds or discontinue or decrease the fees, taxes, rates, or other revenues pledged to the payment of the bonds authorized hereunder or permit to be discontinued or decreased said revenues in anticipation of the collection of which such bonds have been issued, or in any way make any change in the allocation and dedication of any fee, rate, or other revenues which would diminish the amount of the revenues to be received by the commission, until all such bonds shall have been retired as to principal and interest.

Proposed law provides that the holders of the bonds have such rights and remedies as may be provided in the resolution or trust agreement authorizing the issuance of the bonds.

Proposed law provides that subject to the agreements with the holders of bonds, all proceeds of bonds and all revenues pledged under a resolution or trust agreement authorizing or securing such bonds shall be deposited and held in trust in a fund or funds separate and apart from all other funds of the state treasury or of the department.

Proposed law provides that the commission is authorized to employ all professionals it deems necessary in the issuance of the bonds.

Proposed law provides that the commission is authorized to enter into any and all agreements or contracts, and perform any and all acts necessary, convenient, or desirable for the issuance of the bonds or to carry out any power expressly given in proposed law.

Effective July 1, 2012.

(Amends R.S. 48:196(A); Adds R.S. 48:196.1)