

Regular Session, 2012

HOUSE BILL NO. 783

BY REPRESENTATIVES FANNIN, ADAMS, ANDERS, ARMES, BARRAS, BERTHELOT, BILLIOT, BROADWATER, BURFORD, HENRY BURNS, BURRELL, CARTER, CHAMPAGNE, CHANEY, CONNICK, COX, DIXON, EDWARDS, GAINES, GAROFALO, GEYMAN, GISCLAIR, GUILLORY, HARRIS, HARRISON, HAVARD, HAZEL, HENRY, HENSGENS, HILL, HOFFMANN, HONORE, HOWARD, HUNTER, HUVAL, KATRINA JACKSON, JAMES, JEFFERSON, JOHNSON, JONES, LAMBERT, TERRY LANDRY, LEBAS, LEOPOLD, LIGI, LORUSSO, MILLER, MONTOUCET, MORENO, JAY MORRIS, JIM MORRIS, NORTON, ORTEGO, PIERRE, POPE, PRICE, PYLANT, REYNOLDS, RICHARD, RICHARDSON, RITCHIE, ROBIDEAUX, SCHEXNAYDER, SCHRODER, SHADOIN, SIMON, SMITH, ST. GERMAIN, THIBAUT, THOMPSON, WHITNEY, AND PATRICK WILLIAMS AND SENATORS GALLOT, KOSTELKA, LONG, RISER, JOHN SMITH, THOMPSON, AND WALSWORTH

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 certain  
4 licenses and fees; to provide for the deposit of certain monies into the State Highway  
5 Improvement Fund; to provide for the use of the proceeds of the bonds; to provide  
6 for a special fund; to provide for certain requirements and limitations on the issuance  
7 of bonds; to provide for a procedure to contest the validity of issuance of the bonds;  
8 to provide for the rights of bondholders; to authorize the issuance of refunding  
9 bonds; to provide for an effective date; and to 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.

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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 for any  
 18           road which is part of the state highway system but not part of the federal system and,  
 19           thus, is ineligible for federal highway funding assistance which are included in the  
 20           priority listing for the fiscal year pursuant to the highway priority program provided  
 21           for in R.S. 48:228 through 233, and may pledge registration and license fees and  
 22           taxes on trucks and trailers collected by the state pursuant to R.S. 47:462 for the  
 23           payment of the principal and interest of such bonds. The commission is further  
 24           authorized, in its discretion, to pledge all or any part of any gift, grant, donation, or  
 25           other sum of money, aid, or assistance from the United States, the state, or any  
 26           political subdivision thereof, unless otherwise restricted by the terms thereof, all or  
 27           any part of the proceeds of bonds, credit agreements, instruments, or any other  
 28           money of the commission, from whatever source derived, for the further securing of  
 29           the payment of the principal and interest of the bonds. Any bonds issued pursuant  
 30           to the provisions hereof shall constitute revenue bonds under Article VII, Section 6

1 of the Constitution of Louisiana, and such bonds shall be payable solely from an  
 2 irrevocable pledge and dedication of the registration and license fees and taxes  
 3 collected by the state on trucks and trailers pursuant to R.S. 47:462, or other fees,  
 4 rates, rentals, charges, grants, or other receipts or income derived by or in connection  
 5 with an undertaking, facility, project, or any combination thereof, without a pledge  
 6 of the full faith and credit of the state, hereinafter referred to as "revenues".

7 B. In accordance with the provisions of Article VII, Section 9(A)(6) of the  
 8 Constitution of Louisiana, there is hereby established a special fund for the purpose  
 9 of providing for the securitization of any bonds which may be issued pursuant to the  
 10 provisions of this Section which shall include requirements for reserves and credit  
 11 enhancement devices, all as may be provided in any resolution, trust agreement,  
 12 indenture, or other instrument pursuant to which such bonds were issued. The fund  
 13 shall be administered by a trustee as designated by the State Bond Commission. The  
 14 source of monies for the fund shall be the registration and license fees and taxes on  
 15 trucks and trailers collected by the state pursuant to R.S. 47:462, and as provided in  
 16 R.S. 47:481. All revenues received from such registration license fees and taxes as  
 17 are necessary to provide for all requirements associated with the bonds as provided  
 18 in this Section shall be classified and set aside in a separately identifiable fund or  
 19 account outside of the state treasury but maintained by the state treasury and such  
 20 revenues shall be assigned and pledged to the trustee under the documents pursuant  
 21 to which the bonds were issued for the benefit of the holders of the bonds. Only after  
 22 satisfaction of all requirements of this Section shall any monies received by the state  
 23 from the registration and license fees and taxes on trucks and trailers pursuant to R.S.  
 24 47:462 and 481 be available for any other purposes, and specifically for the purposes  
 25 provided for in R.S. 48:196.

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

1 interest on such bonds. The issuance of bonds under the provisions of this Section  
2 shall not directly, indirectly, or contingently obligate the state or any governmental  
3 unit of the state to levy any taxes whatsoever therefor or to make any appropriation  
4 for their payment.

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

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

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

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

1 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 personally liable 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  
30 been issued pursuant to Subsection A of this Section, neither the legislature, the state,

1 nor any other entity may act to impair any obligation or contract for the benefit of  
2 the holders of the bonds or discontinue or decrease the fees, taxes, rates, or other  
3 revenues pledged to the payment of the bonds authorized hereunder or permit to be  
4 discontinued or decreased said revenues in anticipation of the collection of which  
5 such bonds have been issued, or in any way make any change in the allocation and  
6 dedication of any fee, rate, or other revenues which would diminish the amount of  
7 the revenues to be received by the commission, until all such bonds shall have been  
8 retired as to principal and interest, and there is hereby vested in the holders from  
9 time to time of such bonds a contract right in the provisions of this Section.

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

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

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

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

27 P. The commission is authorized to enter into any and all agreements or  
28 contracts, execute any and all instruments, and do and perform any and all acts  
29 necessary, convenient, or desirable for the issuance of the bonds or to carry out any  
30 power expressly given in this Section.

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

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_