

Regular Session, 2012

SENATE BILL NO. 455

BY SENATOR PETERSON

EDUCATION DEPARTMENT. Creates the Louisiana Statewide Education Facilities Authority. (8/1/12)

1 AN ACT
2 To enact Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 17:409.1 through 409.7, and R.S. 36:651(CC), relative to school
4 facilities; to create and provide for the Louisiana Statewide Education Facilities
5 Authority in the Department of Education; to provide for a board of commissioners
6 and an advisory council and for their membership, powers, duties, and functions; to
7 provide for program participation; to provide relative to ownership and control of
8 public school facilities funded through the authority; to provide relative to
9 implementation and funding; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of
12 1950, to be comprised of R.S. 17:409.1 through 409.7, is hereby enacted to read as follows:

13 **PART XII. LOUISIANA STATEWIDE**
14 **EDUCATION FACILITIES AUTHORITY**
15 **§409.1. Louisiana Statewide Education Facilities Authority**
16 **This Part may be referred to as the "Louisiana Statewide Education**
17 **Facilities Authority Act"**.

1 **§409.2. Legislative findings**

2 **The legislature hereby finds and declares the following:**

3 **(1) To provide an education for the children of Louisiana, the facilities**
4 **in which those children learn should meet a standard of excellence.**

5 **(2) The physical facilities in which students learn have a major impact**
6 **on student achievement and success.**

7 **(3) School building quality affects the quality of teaching.**

8 **(4) Louisiana is ranked as one of the four lowest states in terms of per**
9 **pupil spending on school facilities.**

10 **(5) School building quality impacts the perception of a school's academic**
11 **quality.**

12 **(6) Improving school building quality in Louisiana should be a top**
13 **priority.**

14 **(7) By understanding the current situation regarding school facilities,**
15 **the legislature and education officials are better equipped to determine the next**
16 **steps.**

17 **§409.3. Louisiana Statewide Education Facilities Authority; creation; board of**
18 **commissioners; meetings; quorum; compensation; employees**

19 **A. There is hereby created the Louisiana Statewide Education Facilities**
20 **Authority within the Department of Education. The purpose of the authority**
21 **is to provide funding, coordination, assistance, and oversight for the repair,**
22 **renovation, and construction of public school facilities.**

23 **B. The domicile of the authority shall be East Baton Rouge Parish.**

24 **C.(1) The authority shall be governed by a board of commissioners**
25 **comprised of seven members as follows:**

26 **(a) Three members shall be appointed by the governor, subject to**
27 **confirmation by the Senate, who shall have a background in construction,**
28 **architecture, or finance.**

29 **(b) Two members shall be appointed by the State Board of Elementary**

1 **and Secondary Education, subject to confirmation by the Senate, who shall have**
2 **a background in construction, architecture, or finance.**

3 **(c) The state superintendent of education or his designee.**

4 **(d) One member shall be appointed by the Louisiana School Boards**
5 **Association, subject to confirmation by the Senate.**

6 **(2) Members shall be appointed to the board no later than October 1,**
7 **2012.**

8 **(3) Appointing authorities shall ensure that the membership of the**
9 **board is balanced geographically and that the membership is diverse.**

10 **D. A vacancy occurring on the board for any reason shall be filled in the**
11 **same manner as the original appointment.**

12 **E. Four members of the board shall constitute a quorum necessary for**
13 **the transaction of official business. All official actions of the board shall require**
14 **an affirmative vote of a majority of the commissioners present and voting at any**
15 **meeting.**

16 **F. Members of the board shall serve without compensation, but may be**
17 **reimbursed for necessary and actual expenses incurred while fulfilling their**
18 **official duties as a member of the board.**

19 **G. The board shall meet and organize no later than October 16, 2012.**

20 **§409.4. Powers; duties; functions**

21 **A. The authority shall:**

22 **(1) Collaborate with city, parish, and other local public school boards**
23 **to determine how best to meet their specific needs with regard to school**
24 **facilities.**

25 **(2) Consult with the Education Facilities Authority Advisory Council to**
26 **develop a formula mechanism through which to assess and prioritize**
27 **applications for funding for local projects submitted by city, parish, and other**
28 **local public school boards based on best practices. Such formula shall, at a**
29 **minimum, include the following:**

1 **(a) Consideration for student health and safety, projected demographic**
2 **changes, adequate space needed to accommodate projected student enrollment,**
3 **and the ability of the local school system to finance school repairs, renovations,**
4 **and construction projects.**

5 **(b) Provision to ensure that funds are allocated to city, parish, and other**
6 **local public school systems throughout the state based upon the regions**
7 **established by the State Board of Elementary and Secondary Education for the**
8 **Regional Education Service Centers proportional to public school populations**
9 **within each region.**

10 **(c) Development of a means for determining the amount of local funds**
11 **that shall be contributed by a city, parish, or other local public school system**
12 **for each project funded by the authority. The authority may not fund any**
13 **project at one hundred percent of the cost of the project, except on an**
14 **emergency basis to repair school facilities damaged by fire, flood, wind, storm,**
15 **earthquake, hurricane, or any other natural occurrence.**

16 **(3) Establish design specifications for school facility repair, renovation,**
17 **and construction projects approved for funding by the board including but not**
18 **limited to energy efficiency and construction materials.**

19 **(4) Review and evaluate existing funding mechanisms to support the**
20 **construction and rehabilitation of schools in the state of Louisiana.**

21 **(5)(a) Establish a revolving loan fund for the planning, design,**
22 **construction, expansion, improvement or rehabilitation of publicly-owned**
23 **facilities authorized under the provisions of this Part, which revolving loan fund**
24 **shall be administered by the authority or any governmental agency, public**
25 **corporation, public trust, or any other entity having authority to issue debt for**
26 **or on behalf of the state.**

27 **(b) Monies from a revolving loan fund may be used for the following**
28 **purposes:**

29 **(i) To provide financial assistance, to the extent authorized under state**

1 law, for the planning, design, construction, expansion, improvement and
2 rehabilitation of publicly-owned educational facilities.

3 (ii) To provide financial assistance for the acquisition of immovable
4 property or interests therein, only when such acquisition is integral to a project
5 otherwise authorized by this Part.

6 (iii) To provide loans at or below market interest rates, including
7 interest-free loans, for a period not to exceed thirty years from the completion
8 date of the construction of a project so financed including additional
9 subsidization consisting of bond interest subsidies, forgiveness of principal,
10 negative interest loans or grants, or any combination thereof.

11 (iv) To guarantee or purchase insurance for debt obligations of city,
12 parish, and other local public school boards or school districts, if the total
13 proceeds of such debt obligation support a project eligible for assistance under
14 this Part, and if such guarantee or purchase of insurance would improve credit
15 market access or reduce the interest rate applicable for the obligation.

16 (v) To provide a source of revenue or security for the payment of
17 principal, interest, or premium on revenue or general obligation bonds or other
18 evidences of indebtedness issued by the authority, or any governmental agency,
19 public corporation, public trust, or any other entity having the authority to
20 issue debt for or on behalf of the state, if the net proceeds of such debt
21 instruments are deposited in the revolving loan fund, or are used to finance a
22 project approved by the authority or are used to refund any obligation which
23 finances a facility approved under this Part.

24 (vi) To fund the administrative expenses of the authority as deemed
25 necessary.

26 (vii) Money not currently needed for the operation of the revolving loan
27 fund or otherwise dedicated may be invested in an interest bearing account. All
28 such interest earned on investments shall be credited to the revolving loan fund.

29 (viii) The revolving loan fund shall be administered by the authority,

1 which is authorized to enter into contracts and other agreements in connection
2 with the operation of the revolving loan fund, including but not limited to credit
3 enhancement devices, guarantees, pledges, interest rate swap agreements,
4 contracts and agreements with federal agencies, political subdivisions, public
5 trusts, agencies or commissions of the state, and other parties to the extent
6 necessary or convenient for the implementation of the revolving loan fund. The
7 authority shall maintain full authority for the operation of the revolving loan
8 fund.

9 (ix) In connection with any bonds or other evidences of indebtedness
10 purchased or owned by the authority under this Part, the authority may by suit,
11 action, mandamus, or other proceedings, protect and enforce any covenant
12 relating to and the security provided in connection with such bonds or
13 indebtedness, and may by suit, action, mandamus, or other proceedings enforce
14 and compel performance of all of the duties required to be performed by the
15 governing body and officials of any borrower hereunder and in any proceedings
16 authorizing the issuance of such bonds or other evidences of indebtedness.

17 (6) Issue a report of its findings to the legislature by December 31, 2013.

18 B. If the appropriate funds are available, the Louisiana Statewide
19 Education Facilities Authority may:

20 (1) Conduct a statewide assessment of public school facilities to assess
21 and evaluate the quality and condition of existing public school facilities and
22 compile a school-by-school inventory of facility deficiencies and needs.

23 (2) Review applications from city, parish, and other local public school
24 boards for funding for school facility repairs, renovations, and construction.

25 (3) Employ a qualified executive director who shall have a background
26 in construction, architecture, or finance to administer the functions,
27 responsibilities, and policies of the authority and whose duties shall include, but
28 not be limited to the following:

29 (a) To manage and administer the daily functions of the authority and

1 to perform all other functions necessary to the effective operation of the
2 authority.

3 (b) To employ necessary staff to carry out the duties and functions of the
4 authority. Such staff may include a financial director, a chief of architectural
5 services, a liaison for local school systems, and any other necessary support
6 staff.

7 (4) Submit to the Joint Legislative Committee on the Budget the formula
8 mechanism through which to assess and prioritize applications for funding for
9 local projects submitted by city, parish, and other local public school boards
10 based on best practices.

11 (5) Issue an annual report to the legislature of the authority's activity in
12 the previous budget year.

13 §409.5. Education Facilities Advisory Council; creation; membership; duties;
14 functions

15 A. There is hereby created the Education Facilities Advisory Council
16 comprised of thirteen members as follows:

17 (1) The governor or his designee.

18 (2) The chairman of the Senate Committee on Education or his designee.

19 (3) The chairman of the House Committee on Education or his designee.

20 (4) The chairman of the Senate Committee on Finance or his designee.

21 (5) The chairman of the House Committee on Appropriations or his
22 designee.

23 (6) The executive director of the State Bond Commission or his designee.

24 (7) The legislative auditor or his designee.

25 (8) A representative from the Louisiana School Facility Manager's
26 Association appointed by the association.

27 (9) A representative from the Louisiana Association of School Business
28 Officials appointed by the association.

29 (10) A representative of the Louisiana Association of School

1 Superintendents appointed by the association.

2 (11) A representative of the Louisiana Federation of Teachers appointed
3 by the federation.

4 (12) A representative of the Louisiana Association of Educators
5 appointed by the association.

6 (13) A representative of the Associated Professional Educators of
7 Louisiana appointed by the association.

8 B. The council shall provide advice and input to the Louisiana Statewide
9 Education Facilities Authority board of commissioners to inform policy and
10 funding decisions made by the board.

11 §409.6. Program participation; ownership and control of facilities

12 A. Participation by any city, parish, or other local public school board
13 in any program implemented by the Louisiana Statewide Education Facilities
14 Authority is voluntary.

15 B. Each city, parish, and other local public school board shall retain
16 ownership of and control over any school facility for which funding for repairs,
17 renovation, or construction was obtained through the authority.

18 C. The Louisiana Statewide Education Facilities Authority may serve
19 in an oversight capacity over a project undertaken by a city, parish, or other
20 local public school board to repair, renovate, or construct a school facility only
21 to the extent that the project is funded through the authority.

22 §409.7. Funding

23 The authority may seek and accept gifts, grants, and donations, including
24 federal funds, from any available source. Implementation of the provisions of
25 this Part that require the expenditure of funds shall be subject to the
26 availability of public or private funds, or both, for such purpose; however, no
27 state general fund monies shall be used for this purpose.

28 Section 2. R.S. 36:651(CC) is hereby enacted to read as follows:

29 §651. Transfer of boards, commissions, departments, and agencies to Department of

1 Education; boards, commissions, and agencies within Department of
2 Education

3 * * *

4 **CC. The Louisiana Statewide Education Facilities Authority (R.S.**
5 **17:409.1-409.7) is placed within the Department of Education and shall exercise**
6 **and perform its powers, duties, functions, and responsibilities in the manner**
provided in R.S. 36:801.1.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Nancy Vicknair.

DIGEST

Proposed law creates the La. Statewide Education Facilities Authority (the authority) in the Dept. of Education to provide funding, coordination, assistance, and oversight for the repair, renovation, and construction of public school facilities. Provides for an uncompensated board of commissioners, for an executive director, and for an advisory council to provide advice and input to the authority.

Provides that the board shall be comprised of seven members as follows:

1. Five members – three appointed by the governor, two appointed by BESE – with a background in construction, architecture, or finance – subject to Senate confirmation.
2. The state superintendent of education or his designee.
3. One member appointed by the La. School Boards Association, subject to Senate confirmation.

Requires the authority to do the following:

1. Collaborate with school boards to determine how best to meet needs.
2. Consult with the advisory council to develop a formula and mechanism to assess and prioritize applications for funding local projects.
3. Establish design specifications for school construction projects approved for funding by the board.
4. Review and evaluate existing funding mechanisms for school construction or rehabilitation projects.
5. Establish a revolving loan fund, monies from which may be used for school construction projects.
6. Issue a report to the legislature by Dec. 31, 2013.

Authorizes the authority to do the following if appropriate funds are available:

1. Conduct a statewide assessment of public school facilities and compile school-by-school inventory of deficiencies and needs.

2. Review applications from school boards for facility funding.
3. Employ an executive director who shall administer the functions of the authority and employ staff.
4. Submit the formula and mechanism that the authority is required to develop to the Joint Legislative Committee on the Budget for approval.
5. Issue an annual report to the legislature of its activity in the previous budget year.

Proposed law provides that participation by a school board in an authority program is voluntary. Provides that a school board retains ownership of and control over any school facility for which funding is obtained through the authority and that the authority may exercise oversight over a project only to the extent that the project is funded through the authority.

Proposed law authorizes the authority to seek and accept gifts, grants, and donations, including federal funds, from any available source. Provides that implementation of proposed law provisions that require the expenditure of funds shall be subject to the availability of public or private funds, or both, for such purpose. Specifies, however, that no state general fund dollars shall be used for this purpose.

Effective August 1, 2012.

(Adds R.S. 17:409.1-409.7 and R.S. 36:651(CC))