

Regular Session, 2010  
HOUSE BILL NO. 1457  
BY REPRESENTATIVE MONICA

# ACT No. 1042

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AN ACT

To amend and reenact R.S. 9:2347(M), R.S. 39:996, and R.S. 51:1160 and to enact R.S. 39:1002, relative to payments in lieu of taxes, fees, and charges paid by a lessee to a political subdivision, industrial development board, or certain public trust; to provide that certain payments, fees, and charges paid by a lessee to a political subdivision, industrial development board, or certain public trust under certain circumstances shall be statutory impositions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2347(M) is hereby amended and reenacted to read as follows:

§2347. Bonds of public trust

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M. The property of any public trust, having as its beneficiary the parish of Jefferson, which is authorized under its trust indenture to engage in or issue bonds to finance projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1), acquired or held for one or more of said purposes, is hereby declared to be public property used for essential public and governmental purposes. Accordingly, such public trust, and all of its properties at any time owned by it and the income therefrom and all bonds issued by it and the income therefrom, shall be exempt from all taxes of the parish or municipality, the state, or any political subdivision thereof or any other taxing body, provided, however, that such public trust may require the lessee of each of the projects of the public trust to pay annually

1 to parish or municipal taxing authorities or to any other taxing body, through the  
 2 normal collecting agency, a sum in lieu of ad valorem taxes to compensate such  
 3 authorities for any services rendered by them to such projects, which sum shall not  
 4 be in excess of the ad valorem taxes such lessee would have been obligated to pay  
 5 to such authorities had it been the owner of such project during the period for which  
 6 such payment is made. Such payments to be made in lieu of taxes together with any  
 7 fees and charges of such public trust, to the extent in the aggregate they do not  
 8 exceed the amount of taxes that would be paid if the lessee were the owner, shall  
 9 constitute statutory impositions within the meaning of R.S. 47:2128. No provision  
 10 of this Subsection shall become effective until approved by resolution of the  
 11 Jefferson Parish Council.

12 Section 2. R.S. 39:996 is hereby amended and reenacted and R.S. 39:1002 is hereby  
 13 enacted to read as follows:

14 §996. Lease, sublease, or sale of project prior to issuance of bonds; terms and  
 15 conditions

16 Prior to the issuance of any bonds under this Part, the municipality shall  
 17 lease, sublease, or agree to sell the project to a lessee, sublessee, or purchaser under  
 18 an agreement conditioned upon completion of the project and providing for payment  
 19 to the municipality of such rentals or installment payments as will be sufficient (a)  
 20 to pay the principal of and interest on the bond issued to finance the project, (b) build  
 21 up and maintain any reserve deemed by the governing body to be advisable in  
 22 connection therewith, and (c) unless the contract obligates the lessee, sublessee, or  
 23 purchaser to pay for the maintenance and insurance of the project, to pay the cost of  
 24 maintaining the project in good repair and keeping it properly insured. Such lease,  
 25 sublease, or agreement of sale shall be made upon such other terms and conditions  
 26 and for the time which may be determined by the municipality and may contain  
 27 provisions authorizing the purchase of the entire leased project or any portion thereof  
 28 by the lessee or its assignee, where applicable, after all bonds issued thereunder have

1           been paid in full, for such consideration and upon such terms and conditions as the  
2           municipality may determine. If title to the project is in the municipality, the  
3           municipal corporation may specifically require as a condition under the lease  
4           agreement, that the lessee of each of the projects of said municipal authority shall  
5           pay annually to the appropriate taxing authority, through the normal collecting  
6           agency, a sum in lieu of ad valorem taxes to compensate such authorities for any  
7           services rendered by them to such projects which sum shall not be in excess of the  
8           ad valorem taxes such lessee would have been obligated to pay to such authorities  
9           had it been the owner of such project during the period for which such payment is  
10          made. Such payments to be made in lieu of taxes together with any fees and charges  
11          of such public trust, to the extent in the aggregate they do not exceed the amount of  
12          taxes that would be paid if the lessee were the owner, shall constitute statutory  
13          impositions within the meaning of R.S. 47:2128.

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15          1002. Payments Constitute Statutory Impositions

16                 Payments in lieu of ad valorem tax, fees, and other charges to be paid by a  
17          lessee to a political subdivision, industrial development board, or a public trust  
18          whose property is exempt from ad valorem taxation pursuant to R.S. 9:2347(M),  
19          39:996, 51:1160, or any other provision of law authorizing fees and charges to be  
20          imposed on a lessee, up to the amount that would be due if the property were owned  
21          by a private entity and subject to ad valorem tax, shall constitute statutory  
22          impositions within the meaning of R.S. 47:2128. Provided that the local tax collector  
23          is notified in writing of any required payment in lieu of ad valorem tax, the tax  
24          collector shall collect such payments. Additionally, upon notice in writing from the  
25          political subdivision, industrial development board, or public trust whose property  
26          is exempt from ad valorem taxation that fees and charges constituting statutory  
27          impositions have not been paid, the tax collector shall collect the monies owed and  
28          enforce payment in the same manner as for ad valorem taxes. A pledge of the

1           payment of such amounts which constitute statutory impositions, if any, to secure  
 2           obligations of an industrial development board or political subdivision, shall  
 3           automatically be subject to a tax equivalent lien in the same manner as obligations  
 4           payable from ad valorem taxes.

5           Section 3. R.S. 51:1160 is hereby amended and reenacted to read as follows:

6           §1160. Exemption from taxation; classification of bonds

7                     The corporation is hereby declared to be performing a public function on  
 8           behalf of the municipality or parish with respect to which the corporation is  
 9           organized and to be a public instrumentality of such municipality or parish.  
 10          Accordingly, the corporation and all properties at any time owned by it and the  
 11          income therefrom and all bonds issued by it and the income therefrom shall be  
 12          exempt from all taxation in the state of Louisiana; provided, however, that the  
 13          corporation may require the lessee of each of the projects of the corporation to pay  
 14          annually to parish or municipal taxing authorities, through the normal collecting  
 15          agency, a sum in lieu of ad valorem taxes to compensate such authorities for any  
 16          services rendered by them to such projects which sum shall not be in excess of the  
 17          ad valorem taxes such lessee would have been obligated to pay to such authorities  
 18          had it been the owner of such project during the period for which such payment is  
 19          made. Such payments to be made in lieu of taxes together with any fees and charges  
 20          of such public trust, to the extent in the aggregate they do not exceed the amount of  
 21          taxes that would be paid if the lessee were the owner, shall constitute statutory  
 22          impositions within the meaning of R.S. 47:2128. Also for the purposes of R.S.  
 23          ~~51:704(2)~~ 51:708(1) and any amendment thereto or substitution therefor, bonds  
 24          issued by the corporation shall be determined to be securities issued by a public  
 25          instrumentality of a political subdivision of the state of Louisiana.

26          Section 4. This Act shall become effective upon signature by the governor or, if not  
 27          signed by the governor, upon expiration of the time for bills to become law without signature  
 28          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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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: \_\_\_\_\_