

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 CHEEK, LONG, NEVERS, AND SHAW

BONDS/STATE: Authorizes the State Bond Commission to issue bonds secured by unclaimed property monies for the completion of I-49

1 AN ACT

2 To amend and reenact R.S. 9:165(C)(2)(a) and to enact R.S. 9:165.1, relative to issuance of
3 bonds; to authorize the State Bond Commission to issue bonds secured by monies
4 deposited into the Unclaimed Property Leverage Fund for completion of I-49; to
5 provide for the use of the proceeds of the bonds; to provide for certain requirements
6 and 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 effectiveness; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 9:165(C)(2)(a) is hereby amended and reenacted and R.S. 9:165.1
12 is hereby enacted to read as follows:

13 §165. Deposit of funds

14 A.

15 * * *

16 C.(1)

17 * * *

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

1 ~~(a) For transfer to the Louisiana Transportation Authority, hereinafter~~
2 ~~referred to as the "authority", to pay the principal and interest of unclaimed property~~
3 ~~bonds issued by the authority as the bonds become due and payable, and to fund such~~
4 ~~reserve for contingencies, costs, and expenses as may be required by the resolution~~
5 ~~authorizing the issuance of such bonds. These proceeds shall be expended, utilizing~~
6 ~~any or all powers granted to the authority, including the funding or securitization of~~
7 ~~revenue bonds, funds from the I-49 North Account exclusively to match federal~~
8 ~~funds to be used for the costs for and associated with the construction of Interstate~~
9 ~~49 North from Interstate 20 in the city of Shreveport to the Louisiana/Arkansas~~
10 ~~border and funds from the I-49 South Account for Interstate 49 South from Interstate~~
11 ~~10 in the city of Lafayette to the West Bank Expressway in the city of New Orleans.~~
12 For transfer to the State Bond Commission, hereinafter referred to as the
13 "commission", to pay the principal, premium, and interest of unclaimed property
14 bonds issued by the commission pursuant to R.S. 9:165.1 as the bonds become due
15 and payable and to fund such reserves for contingencies, costs, and expenses as may
16 be required by the resolution authorizing the issuance of such bonds as well as pay
17 amounts of ongoing expenses associated with the administration, maintenance, or
18 evaluation of the bonds issued for Interstate 49 North and Interstate 49 South.
19 Proceeds of the bonds, except monies needed to fund reserves and pay costs of
20 issuance, and to the extent not needed to pay debt service or other amounts due under
21 the resolution authorizing the bonds, shall be expended utilizing any or all powers
22 granted to the commission including the funding or securitization of revenue bonds.
23 Monies from the I-49 North Account shall be used exclusively to match federal
24 funds to be used by the Department of Transportation and Development for the costs
25 for and associated with the construction of Interstate 49 North from Interstate 20 in
26 the city of Shreveport to the Louisiana/Arkansas border. Monies from the I-49
27 South Account shall be used exclusively to match federal funds to be used by the
28 Department of Transportation and Development for the costs for and associated with

1 the construction of Interstate 49 South from Interstate 10 in the city of Lafayette to
2 the West Bank Expressway in the city of New Orleans.

3 * * *

4 §165.1. Bonds; Unclaimed Property Bonds; Completion of I-49

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

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

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

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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

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

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

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

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

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

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

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

1 B. Bonds issued under the provisions of this Section shall not be deemed to
2 constitute a pledge of the full faith and credit of the state or of any governmental unit
3 thereof. All such bonds shall contain a statement on their face substantially to the
4 effect that neither the full faith and credit of the state nor the full faith and credit of
5 any public entity of the state are pledged to the payment of the principal of or the
6 interest on such bonds. The issuance of bonds under the provisions of this Section
7 shall not directly, indirectly, or contingently obligate the state or any governmental
8 unit of the state to levy any taxes whatever therefor or to make any appropriation for
9 their payment, other than obligations to make payments by the state or any public
10 entity to the commission arising out of contracts, including without limitation the
11 bonds, the bond resolution, and/or trust indentures authorized under this Section.

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

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

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

1 F. For a period of thirty days after the date of publication of a notice of intent
2 to issue bonds in the official journal of the state authorizing the issuance of bonds
3 hereunder, any person in interest shall have the right to contest the legality of the
4 resolution and the legality of the bond issue for any cause, but after that time no one
5 shall have any cause or right of action to contest the legality of the resolution or of
6 the bonds or the security therefor for any cause whatsoever. If no suit, action, or
7 proceeding is begun contesting the validity of the resolution, the bonds or the
8 security therefor within the thirty days herein prescribed, the commission to issue the
9 bonds and to provide for the payment thereof, the legality thereof, and of all of the
10 provisions of the resolution authorizing the issuance of the bonds shall be
11 conclusively presumed to be legal and shall be incontestable. Any notice of intent
12 so published shall set forth in reasonable detail the purpose of the bonds, the security
13 therefor, and the parameters of amount, duration, and interest rates. The commission
14 may designate any paper of general circulation in its geographical jurisdiction to
15 publish the notice of intent or may utilize electronic media available to the general
16 public. Any suit to determine the validity of bonds issued by the commission shall
17 be brought only in accordance with the provisions of R.S. 13:5121 et seq.

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

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

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

1 J. Bonds of the commission, their transfer, and the income therefrom shall
2 at all times be exempt from all taxation by the state or any political subdivision
3 thereof, and may or may not be exempt for federal income tax purposes. The bonds
4 issued pursuant to this Section shall be and are hereby declared to be legal and
5 authorized investments for banks, savings banks, trust companies, building and loan
6 associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds
7 shall be eligible to secure the deposit of any and all public funds of the state and any
8 and all public funds of municipalities, parishes, school districts, or other political
9 corporations or subdivisions of the state. Such bonds shall be lawful and sufficient
10 security for said deposits to the extent of their value. When any bonds shall have
11 been issued hereunder, neither the legislature, the commission, nor any other entity
12 may discontinue or decrease the revenues pledged to the payment of the bonds
13 authorized hereunder or permit to be discontinued or decreased said revenues in
14 anticipation of the collection of which such bonds have been issued, or in any way
15 make any change in the allocation and dedication of the revenues which would
16 diminish the amount of the revenues to be received by the commission, until all of
17 such bonds shall have been retired as to principal and interest, and there is hereby
18 vested in the holders from time to time of such bonds a contract right in the
19 provisions of this Section.

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

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

27 M. Subject to the agreements with the holders of bonds, all proceeds of
28 bonds and all revenues pledged under a resolution or trust agreement authorizing or
29 securing such bonds shall be deposited and held in trust in a fund or funds separate

1 and apart from all other funds of the state. Subject to the resolution or trust
 2 agreement, the trustee shall hold the same for the benefit of the holders of the bonds
 3 for the application and disposition thereof solely to the respective uses and purposes
 4 provided in such resolution or trust agreement.

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

7 O. The commission shall be deemed to be a public entity for purposes of
 8 Chapters 13, 13-A, 14, 14-A, 14-B, and 15-A of Title 39 of the Louisiana Revised
 9 Statutes of 1950, as amended, which statutes shall apply to bonds of the commission,
 10 provided that in the event of a conflict with the provisions of this Section, the
 11 provisions of this Section shall control.

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

17 (2) If bonds for this project are not sold by December 31, 2013, the
 18 provisions of this Section shall become, null, void, and of no effect on January 1,
 19 2014.

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)]

Jane Smith

HB No. 370

Abstract: Authorizes the State Bond Commission to issue unclaimed property bonds for the completion of I-49. Debt service to be paid from the Unclaimed Property Leverage Fund.

Present law provides for the creation of the Unclaimed Property Leverage Fund, hereinafter the "fund" as a special fund in the state treasury for deposit of a portion of the funds derived from the Uniform Unclaimed Property Act. Requires the treasurer to deposit \$15 million each fiscal year into the Unclaimed Property Leverage Fund.

Present law provides for creation of the I-49 North Account and the I-49 South Account as special accounts in the fund. 50% of the monies deposited into the fund shall be deposited

into the I-49 North Account, and 50 % of the funds deposited into the fund shall be deposited into the I-49 South Account.

Proposed law retains present law.

Present law requires a portion of the monies appropriated from the funds to be transferred to the Louisiana Transportation Authority (LTA) to pay the principal and interest of unclaimed property bonds issued by the LTA as the bonds become due and payable. Funds from the I-49 North Account shall be used exclusively to match federal funds to be used for the costs for and associated with the construction of Interstate 49 North from Interstate 20 in the city of Shreveport to the La./Ark. border, and funds from the I-49 South Account for Interstate 49 South from Interstate 10 in the city of Lafayette to the West Bank Expressway in the city of New Orleans.

Proposed law changes present law by requiring that instead of transferring a portion of the monies to the LTA, that a portion of the monies be transferred to the State Bond Commission, hereinafter "commission", to pay the principal, premium, and interest of unclaimed property bonds issued by the commission pursuant to proposed law as the bonds become due and payable.

Proposed law authorizes the commission to issue bonds for the I-49 Project and to pledge unclaimed property revenues (Unclaimed Property Fund) for the payment of the principal and interest of the unclaimed property bonds. Unclaimed property bonds shall be payable solely from revenues and bond proceeds. The unclaimed property receipts received from the state treasurer each fiscal year shall be applied to pay or provide for the payment of debt service on bonds and all related costs and expenses associated with issuance of the bonds.

Proposed law prohibits payments securitized by unclaimed property receipts in the Unclaimed Property Leverage Fund from exceeding \$15 million per year.

Proposed law provides for provisions that may be included in the resolution under which unclaimed property fund bonds are authorized.

Proposed law provides that bonds issued according to proposed law shall not be deemed to constitute a pledge of the full faith and credit of the state or of any governmental unit. Requires that the bonds contain a statement on their face indicating that neither the full faith and credit of the state or any public entity is pledged to the payment of principal of or the interest of the bonds.

Proposed law requires that the bonds be authorized by a resolution and shall be of a series, bear a date, mature at a time, bear interest at a rate, be payable at a time, be in a denomination, be in a form, carry registration and exchangeability privilege, be payable in a medium of payment and at a place or places, be subject to terms of redemption prior to maturity at a price determined by the commission, and be entitled to priority on the revenues as the resolution may provide.

Proposed law requires that the bonds be sold at public sale by competitive bid or negotiated private sale at a price determined by the commission. Prohibits the issuance of bonds from being subject to any limitations, requirements, or conditions contained in any other law. Authorizes bonds to be issued without obtaining the consent of the state or any political subdivision, except that the bonds shall be included in the calculation of net state tax supported debt as defined in present law.

Proposed law provides for a 30-day period after publication of a notice of intent to issue bonds for any person in interest to contest the legality of the resolution and the legality of the bond issue for any cause. After that 30-day period, no one shall have any cause or right of action to contest the legality of the resolution or of the bonds or the security for any cause whatsoever. If no proceeding is begun to contest the validity of the resolution, the bonds,

or the security within the 30 days, the provisions of the resolution authorizing the issuance of the bonds shall be conclusively presumed to be legal and shall be incontestable. Proposed law provides for requirements of the notice of intent and for the designation of a newspaper of general circulation to publish the notice of intent, or may utilize electronic media available to the general public.

Proposed law provides that any pledge of revenues or other monies made by the commission shall be valid and binding from the time the pledge is made. The revenues or monies pledged by the commission shall immediately be subject to a lien which shall be valid and binding against all parties having claims of any kind.

Proposed law provides that no member of the commission or any person executing the bonds shall be personally liable for the bonds.

Proposed law provides that bonds, their transfer, and the income derived therefrom shall be exempt from all taxation by the state or any political subdivision.

Proposed law authorizes the commission to provide by resolution for the issuance of refunding bonds pursuant to present law.

Proposed law provides for the rights and remedies of bondholders.

Proposed law provides that the provisions of proposed law shall become null, void, and of no effect on the date that all bonds issued by the commission are paid or deemed paid in full and are no longer considered outstanding or the I-49 project is deemed completed by DOTD, whichever is later. Further provides that if bonds for this project are not sold by Dec. 31, 2013, the provisions of proposed law with respect to issuance of bonds shall become null, void, and of no effect on Jan. 1, 2014.

(Amends R.S. 9:165(C)(2)(a); Adds R.S. 9:165.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Added authorization for the commission to pay related costs and expenses associated with issuance of the bonds for I-49 North and I-49 South from unclaimed property receipts.
2. Added limitation that bond payments securitized by unclaimed property receipts in the Unclaimed Property Leverage Fund shall not exceed \$15 million per year.
3. Added provision that proposed law shall become null, void, and of no effect on the date that all bonds issued by the commission are paid or deemed paid in full and are no longer considered outstanding or the I-49 project is deemed completed by DOTD, whichever is later.
4. Added provision that if the bonds for this project are not sold by Dec. 31, 2013, the provisions of proposed law with respect to issuance of bonds shall become null, void, and of no effect on Jan. 1, 2014.