

SENATE BILL NO. 699

BY SENATOR PETERSON

1 AN ACT

2 To enact Part XV of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 39:1051, relative to local financing; to authorize
4 public entities to create public benefit corporations and enter into contracts with such
5 public benefit corporations for the planning, renovation, construction, leasing,
6 subleasing, management and improvement of public properties and facilities; to
7 exempt such public entities from limitations on property dispositions relating to
8 surplus property in connection with the alienation or disposition of public properties
9 and facilities to public benefit corporations created by such public entities provided
10 that such property remains dedicated for public purposes; to authorize such public
11 entities to enter into financing arrangements with their public benefit corporations
12 and other private parties providing additional funds to such public benefit
13 corporations to construct new facilities and/or to renovate existing public properties
14 or facilities; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Part XV of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised
17 Statutes of 1950, comprised of R.S. 39:1051, is hereby enacted to read as follows:

18 **PART XV. PUBLIC ENTITY FACILITIES FINANCING ACT**

19 **§1051. Public Entity Facilities Financing Act**

20 **A. Title. The provisions of this Part shall be known and may be cited as**
21 **the "Public Entity Facilities Financing Act".**

22 **B. Creation or designation of public benefit corporations to finance the**

1 construction, renovation and operation of public properties and facilities. Public
2 entities are hereby authorized to create one or more public benefit corporations
3 or designate, by resolution or other authorized act, an existing nonprofit
4 corporation to be such a public benefit corporation pursuant to this Part solely
5 for the purpose of entering into agreements and engaging in financing
6 arrangements, including new markets tax credit transactions, to plan, renovate,
7 construct, lease, sublease, manage, operate and improve public property and
8 facilities within the jurisdiction of the public entity, notwithstanding any
9 restrictions and prohibitions in R.S. 12:202.1.

10 C. Transfers and dispositions of public properties and facilities to public
11 benefit corporations. Notwithstanding any other provision of law to the
12 contrary and in order to facilitate the construction of new and the renovation
13 of existing public properties or facilities, public entities are hereby authorized
14 to transfer their properties to public benefit corporations created or designated
15 pursuant to this Part through financing arrangements, including without
16 limitation sales, sale-leasebacks, leases, and lease-leasebacks, and such transfer
17 shall be exempted from the limitations or requirements of R.S. 17:87.6, R.S.
18 41:891 and 892. However, no transfer or disposition of public properties or
19 facilities authorized by this Part shall result in such properties or facilities being
20 used upon such transfer or thereafter for purposes other than public purposes.
21 The dedication to public purposes of property transferred by a public entity
22 pursuant to this Part shall be specifically stated in any transfer or disposition
23 document, and such language shall also specifically provide that the title and
24 control of the property shall automatically by operation of law revert to the
25 public entity upon the property commencing to be used for a purpose other than
26 a public purpose.

27 D. Authority of public entities to loan or guarantee loans. Public entities
28 are hereby authorized to make and to guarantee loans to a public benefit
29 corporation created or designated by such public entity hereunder or to other
30 third parties in order to facilitate the construction of new public properties or

1 facilities or the renovation of existing public properties or facilities, provided
2 that as a condition to any such loan or guaranty the public entity shall
3 demonstrate a public purpose for such loan or guaranty pursuant to Article VII,
4 Section 14 of the Constitution of Louisiana. Such loans or guarantees shall
5 further be subject to the approval of the State Bond Commission.

6 E. Partnerships and agreements with private entities for the
7 construction, renovation and operation of properties by public benefit
8 corporations. Public benefit corporations may act alone or in partnership and
9 financing arrangements with private entities in order to leverage additional
10 funds not otherwise available to public entities for the construction and
11 renovation of properties transferred to or loaned or subleased by such public
12 benefit corporations. However, the use of any funds loaned or made available
13 to a public benefit corporation in partnership or other arrangement with
14 private entities shall be dedicated solely for the construction of new public
15 properties or facilities and the renovation of existing public properties or
16 facilities or operation of public properties or facilities after the payment of all
17 fees and costs related to any financings and partnerships and the setting aside
18 of any reserves required in connection therewith. Such fees and the size of any
19 reserves shall be subject to the approval of the State Bond Commission. Such
20 partnerships or other arrangements shall include language specifically
21 providing that title and control of property transferred to the public benefit
22 corporation by the public entity shall automatically by operation of law revert
23 to the public entity upon the property's ceasing, other than temporarily, to be
24 used for public purposes.

25 F. Organization and governance of public benefit corporation. A public
26 benefit corporation created pursuant to this Part shall not be a political
27 subdivision of the state but shall be a nonprofit corporation organized and
28 governed under the applicable provisions of Chapter 2 of Title 12 of the
29 Louisiana Revised Statutes of 1950, as modified by this Part, and shall
30 additionally have all of the powers defined in R.S. 41:1215(B) and R.S.

1 12:202.1(D), except that any contract for public work, as such term is defined
2 in R.S. 38:2211 between the public benefit corporation and a third party shall
3 be subject to the advertisement and bid requirements of R.S. 38:2212. Any
4 public benefit corporation created or designated by a public entity pursuant to
5 this Part shall be an instrumentality of the public entity by which it was created
6 or designated as a public benefit corporation. Notwithstanding the limitations
7 in R.S. 12:202.1(D) with respect to the right to issue negotiable revenue bonds,
8 the public benefit corporations authorized to be created pursuant to this Part
9 may issue negotiable revenue bonds in connection with a new markets tax credit
10 transaction in any amount deemed necessary to accomplish the purposes set
11 forth herein; provided further, however, that any and all obligations issued by,
12 as well as any related financing arrangements entered into by such public
13 benefit corporations created or designated pursuant to this Part, shall be
14 subject to the approval of the State Bond Commission. Any security interest
15 granted by a public benefit corporation created or designated by a public entity
16 shall be subject to the terms and provisions of R.S. 39:1430.1.

17 G. Definitions. For purposes of this Part, the following words and
18 phrases shall have the meanings set forth below:

19 (1) "Public entities" shall have the meaning given in R.S. 39:1421(2),
20 except that "public entities" as used in this Part shall not include school boards
21 that are subject to the terms of R.S. 17:100.10.

22 (2) "Public properties or facilities" means properties or facilities owned
23 or leased by a public entity or public benefit corporation.

24 (3) "Public purposes" means the public purpose or purposes for which
25 a particular piece of public property or a public facility is being used or is
26 intended to be used by a public entity.

27 H. Intent. Nothing in this Part shall be construed as a restriction or a
28 limitation upon any powers which any public entity might otherwise have under
29 any laws of this state. This Part shall be regarded as supplemental and
30 additional to other powers conferred by other laws.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____