Louisiana Department Of Treasury
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TREASURER OPPOSES UNCONSTITUTIONAL BILL TO IMPOSE MASSIVE FEES ON CITIZENS WITHOUT VOTE OF PEOPLE - Against HB 836

By State Treasurer John Fleming, M.D.

People hate to be hit with unexpected government fees every month — fees they never approved and may not even know about. But more such fees could be imposed on you if House Bill 836 passes the Louisiana Legislature now in session.

This bill would allow cities and other government agencies to sign deals with a privately-held out of state company that would pay off the cities' debt and then impose fees on the citizenry without a vote of the public.

Under the Louisiana Constitution, Article 7 Section 8, no governmental body can issue bonds or other obligations without approval of the State Bond Commission, which is chaired by the Treasurer. The Bond Commission is the only real check on out-of-control debt at the state or local level. The Bond Commission also prevents fees being levied on the public without their approval.

But all of that would change with the passage of House Bill 836, which attempts to circumvent the requirements of the Constitution.

In March, S&P raised the State's General Obligation Bond rating from AA- to AA. The upgrade reflected S&P's view of Louisiana's demonstrated commitment to improving and maintaining very strong reserves and the state's ongoing efforts to reduce unfunded pension liabilities.

Louisiana's prudent handling of spending and debt is being recognized nationally. Our Louisiana state government is making the right decisions on state spending, debt, and state retirement systems.

This improving reputation was on display last Tuesday as the state proceeded to market with two competitive general obligation bond sales. The response was impressive with very strong demand from qualified bidders.

The bonds were rated by S&P, Moody's and KBRA as high-grade investments with very low credit risk. These results proved that Louisiana has established a very good standing in the financial markets.

With so much recent success, we do not want to jeopardize any of this progress in this legislative session. The old maxim comes to mind, "If it ain't broke, don't fix it." This is why our office has concerns about a bill, HB 836 by Representative Jack McFarland (R-Jonesboro), that recently was passed by the House Ways and Means Committee.

The bill attempts to bypass the scrutiny of the Bond Commission for long-term financial obligations for political subdivisions, such as a municipality, and could open the door for predatory lending practices.

Even worse, there will be public fees that may have to be paid by citizens without their vote of approval. In essence, this is taxation without representation.

Another concern is that the bill includes language that would make the law retroactive, which may impact pending litigation involving public entities.

The Bond Commission not only reviews and approves new financial obligations that are created by the state, but it also serves as a central repository of the information on what obligations exist. Without Bond Commission approval, there is really no way to determine what obligations have been entered into or by whom.

This matter is addressed clearly in the Louisiana State Constitution, Article VII, Section 8: "Approval of bonds. No bonds or other obligations shall be issued or sold by the state, directly or through any state board, agency, or commission, or by any political subdivision of the state, unless prior written approval of the bond commission is obtained."

The reason the state has enjoyed improved bond ratings in recent years is due to the rigorous oversight of the Bond Commission, which provides needed guiderails that establish financial stability. Removing such guiderails creates an unnecessary risk for the State and local governments and it could have a negative effect on State and local bond ratings.

Political subdivisions could end up with undesirable long-term obligations, which could impact their future debt and bond ratings. With many billions of dollars of needed infrastructure, the last thing we need is to do is make it more difficult to secure funds at the best possible rate.

Political subdivisions should be very cautious about entering into any financial obligations without Bond Commission approval. We fear doing so might place those public officials who make such obligations, without Bond Commission approval, personally liable for their actions.

At the Department of Treasury, we want to work closely with all members of the Louisiana Legislature, and we will continue to do so. However, our position remains that regardless of what statute is passed by the legislature, short of a constitutional amendment, political subdivisions are not relieved of their responsibility to seek approval from the Bond Commission before incurring financial obligations.

After so much recent progress, it would be imprudent to bypass the needed oversight of the state Bond Commission on these critical financial issues. Instead, with close cooperation, we can continue moving in the right direction.

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