

February 1, 2018

Mayor-President Joel Robideaux
Lafayette Consolidated Government
P.O. Box 4017-C
Lafayette, LA 70502

Dear Mayor-President Robideaux,

As we continue our discussions regarding a Cooperative Endeavor to manage and operate Lafayette's public utility assets, I thought it might be helpful to share with you the attached memorandum received from our outside counsel addressing issues relevant to a CEA. Although we believe the CEA should be approved by both LPUA and the City-Parish Council, a public election is not required by law. We also support the recommendation of having the CEA validated by the courts to assure the public that the CEA meets all legal requisites and remove all doubt that a public vote is unnecessary. Please let us know if your staff has any questions related to these issues.

Sincerely,
Bernhard Capital Partners



Jeffrey Jenkins
Partner

MEMO

From: Hank Perret
To: Bernhard Capital Partners Management, LP
Date: February 1, 2018
Subject: Cooperative Endeavor Agreement with LUS

This responds to your request that we share our thoughts on the procedure for entering into a cooperative endeavor with Lafayette Consolidated Government where an affiliate of Bernhard Capital Partners Management, LP (“BCP”) assumes responsibility for the management and operation of the Lafayette Utility System assets for a period of ninety-nine (99) years. You have asked whether a CEA would require a vote of the public or of the Lafayette City-Parish Council. For the reasons set forth below, in our opinion the transaction would not require the vote of the public since it does not include a sale, lease or other disposition, but City-Parish Council approval is a requisite.

Issue 1

Is a public election needed to grant the parties permission to enter into a CEA of this kind?

Short Answer

A public election is only required if there is a sale, lease or disposition. Although both the Home Rule Charter and the State have statutes requiring an election when there is a sale, lease, or disposition of a public utility system, the CEA as proposed will not include a sale, lease, or disposition. Absent one of these, a public election is unnecessary.

Discussion

Louisiana Revised Statute 33:4341, entitled “Sale or Lease of Revenue-Producing Utility Property,” provides that any political subdivision may *sell or lease* any revenue-producing properties owned by it, if the governing authorities have been first authorized to do so by a vote of a majority of the qualified electors, voting at an election held for that purpose. Likewise, the Lafayette Public Utilities Authority (the “LPUA”) may not *sell, lease or in any manner dispose* of its utility system without approval by a majority vote of the qualified electors residing within the boundaries of the City of Lafayette voting in an election called for that purpose.¹ By including “or in any manner dispose” of its utility system, Lafayette’s Home Rule Charter goes a step further than the state statute, covering a greater scope of situations that require an election.

However, for the purpose of aiding in the implementation of an economic development plan, any local governmental subdivision may cooperate or engage in cooperative endeavors with any economic development corporation or other local governmental subdivision or any other private or public entity or person.² This would encompass management and operation of a public utility system. If a transaction includes any sale, lease or other disposition of the utility

¹ Section 4-08 of the Home Rule Charter for the Lafayette City-Parish Consolidated Government.

² La. Rev. Stat. Ann. § 33:9031.

system, a public election is required. But if the agreement meets the requirements of a CEA, as detailed in the next section, and does not involve a sale, lease, or other disposition, the parties will avoid falling within the scope of the state and local statutes requiring an election.

As noted below, Louisiana law provides a mechanism to obtain a judicial validation of a CEA on an expedited basis, a procedure we strongly encourage the parties to utilize. This process will ensure all parties of the legal validity of the proposed transaction prior to its effective date and funding. We suggest that the CEA expressly provide that it not become executory unless and until there has been a final judgment validating the CEA.

Issue 2

What procedures must be followed to execute a valid Cooperative Endeavor Agreement between the parties?

Short Answer

The CEA must first be approved by the LPUA, then by the City-Parish Council, and finally by the Mayor-President. The LPUA will then have the authority to seek court validation of the CEA to definitively confirm that a public election is not required. State statutes outline the procedure to be followed when seeking CEA validation, including a motion by the governing body, service of motion, answer and intervention, appeals, and lastly, validation.

Discussion

Permission to go forward with a CEA must be granted by LCG. The proposal for the CEA would come from the governing body of the utility, here LPUA,³ by a majority vote of the members. An introductory ordinance is presented at an LPUA meeting followed by a public-comment period. After the public has had a chance to comment, the introductory ordinance is put to a vote. If approved, the ordinance will be revisited in no less than two weeks and considered for final passage by a majority vote of the LPUA.

Once approved by the LPUA, because the CEA will regulate rates charged by LCG for services, the ordinance must be confirmed by vote of the City-Parish Council.⁴ If adopted by the Council, the ordinance becomes effective upon signature of the Mayor-President, the lapse of ten (10) days after receipt by the Mayor-President without signature or veto, or upon an override of a veto, whichever occurs first.

Upon approval, the LPUA may bring a proceeding in the court having original jurisdiction over the matter to establish the validity of the CEA.⁵ The purpose of the validation of a CEA is to provide a “uniform, expeditious, and equitable procedure, with due regard for the

³ Section 4-07 of the Home Rule Charter for the Lafayette City-Parish Consolidated Government.

⁴ See Section 2-11.A.7 of the Home Rule Charter which requires Council approval for acts which, “Regulate the rate or other charges for service by the City-Parish Government.”

⁵ La. R.S. § 13:5123.

public fisc and rights of persons in interest.”⁶ There are both substantive and procedural standards which must be met in seeking validation of a CEA.

The courts have determined that for a CEA to be valid, it must be shown to follow the requirements set forth in *Board of Directors of Indus. Development Bd. Of City of Gonzales, Louisiana, Inc. v. All Taxpayers, Property Owners, Citizens of City of Gonzales, et al.*⁷ In short, the CEA must meet the following three elements to be valid: (i) The expenditure or transfer must be for a public purpose that comports with the governmental purpose which the entity has legal authority to pursue; (ii) The expenditure or transfer of public funds or property, taken as a whole, cannot appear to be gratuitous; and (iii) Evidence must demonstrate that the public entity has a demonstrable, objective, and reasonable expectation of receiving a benefit or value at least equivalent to the amount expended or transferred.⁸

We recommend that all parties approve the drafting of the motion filed to validate the CEA. Every relevant issue should be set out included in the motion and put before the court to assure that the judgment rendered is “final” as to all matters.

Unfortunately, there is a dearth of caselaw offering guidance. The most important consideration appears to be ensuring that there is no gratuitous disposal or transfer of state-owned property in contravention of Article 7, Section 14(a) of the Louisiana Constitution. The Court in the Cabela’s Case emphasized the reciprocal nature of the obligations imposed on the local government and on Cabela’s in the issue addressed.⁹ It appears that the three jurisprudential requisites should be able to be met with the BCP proposal.

The statutes provide greater detail on the procedural requisites,¹⁰ though the reference is to the procedure for issuing bonds within the state. After the CEA has been filed for validation, the court will circulate the motion throughout newspapers in the general area affected.¹¹ Following publication, any citizen may file an answer to the motion for judgment within seven days of the second publication.¹² Upon hearing, the court will consider all questions of law and fact and will not invalidate the CEA “unless it finds substantial defects, material errors and omissions in the incidents of such [CEA] issues.”¹³

Appeals are permissible when filed within ten days of entry of validation judgment. Finally, upon a decree of validation by the court and no appeal is taken, the court will issue a decree regarding the validity of the CEA, and such a decree shall be binding and conclusive.¹⁴

⁶ La R.S. § 33:9031.1.

⁷ 938 So.2d 11 (La. 9/6/06). This case is commonly referred to as the “Cabela’s Case.”

⁸ Louisiana Legislative Auditor, Cooperative Endeavor Agreement, 2 (2017), available at [https://app.la.state.la.us/llala.nsf/9EB337F0C1BA94D886257AB500752B32/\\$FILE/CEA%20Memo%20and%20S ample.pdf](https://app.la.state.la.us/llala.nsf/9EB337F0C1BA94D886257AB500752B32/$FILE/CEA%20Memo%20and%20S ample.pdf).

⁹ 938 So.2d at 27.

¹⁰ La. R.S. § 13:5121, *et seq.*

¹¹ La. R.S. § 13:5124. In more detail, the motion must be published twice with a consecutive fifteen day period from the date of issuance of the order, with the first publication occurring less than eight days from the issuance of the order, and the second publication occurring within the same fifteen day window.

¹² La. R.S. § 13:5126.

¹³ La. R.S. § 13:5130.

¹⁴ La. R.S. § 13:5129.

West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 33. Municipalities and Parishes (Refs & Annos)
Chapter 10. Public Utilities (Refs & Annos)
Part III. Disposition of Utility Property and Granting of Franchises
Subpart A. Sale or Lease of Revenue Producing Public Utility

LSA-R.S. 33:4341

§ 4341. Sale or lease of revenue-producing utility property; election required; exception

Currentness

A. Any municipality, the city of New Orleans excepted, or any parish or any other political subdivision or taxing district authorized to issue bonds under [Article VI, Section 37, of the Constitution of Louisiana](#), all of which are hereinafter in this Subpart referred to as “municipality” or “parish”, may sell or lease any revenue-producing properties owned by it, including all proper franchises to operate the properties for a term not to exceed sixty years, provided the governing authorities have been first authorized to do so by a vote of a majority of the qualified electors, voting at an election held for that purpose as herein directed. When a city, town, or village owns and operates a water, gas, or other revenue-producing public utility, serving customers outside the territorial limits of the city, town, or village, as is allowed by law, a negotiated sale of all of the connections and utility installations outside the area of the said city, town, or village and within the corporate limits of another city, town, or village may be made to the latter city, town, or village by negotiation and without any election, for such price as may be agreed upon between the parties. No election shall be required to authorize the sale or lease by any municipality or parish of revenue-producing water properties to any other municipality, parish, or other political subdivision.

B. Notwithstanding any other provisions of law to the contrary, any municipality or any other political subdivision, including without limitation, any joint commission deemed to be a body politic and political subdivision in accordance with Subpart A, Part VII, Chapter 2 of Title 33 of the Louisiana Revised Statutes (“The Local Services Act”),¹ in, and including, the parish of East Baton Rouge, hereinafter referred to as a “public entity”, may sell or lease any revenue-producing utility or any other property or equipment owned by it, in connection with the operation, management, financing, or refinancing thereof, to, or may acquire or lease such property or equipment from, any other public entity in, and including, the parish of East Baton Rouge, by negotiation and without any election or application of any other law, for such price and pursuant to such terms and conditions as may be agreed upon between the parties.

C. The provisions of Subsection A of this Section shall apply to the conveyance or lease of facilities and properties of any sewerage district to a private person or corporation, which person or corporation shall thereby be authorized to operate such facilities.

D. (1) Notwithstanding any provision of law to the contrary, the governing authority of the parish of Terrebonne may sell, lease, or otherwise convey by any constitutional means its natural gas distribution system and transfer all right and title to all of the assets thereof to the governing authority of the city of Houma by action authorized by ordinance of the governing authority of the parish without the need of an election or any other proceeding.

(2) The ordinance shall include provisions for the transfer to the city governing authority or retention by the parish governing authority of financial obligations and legal liabilities associated with the gas distribution system. Such provisions shall be in accordance with the laws and constitution of the state of Louisiana.

Credits

Amended by Acts 1958, No. 194, § 1; Acts 1961, No. 22, § 1; Acts 1972, No. 111, § 1; Acts 1989, No. 810, § 1, eff. July 10, 1989; Acts 1991, No. 288, § 1, eff. July 2, 1991; Acts 1995, No. 18, § 1, eff. May 25, 1995; Acts 1995, No. 376, § 1 eff. June 16, 1995.

[Notes of Decisions \(15\)](#)

Footnotes

¹ In subsec. B, see [R.S. 33:1321 et seq.](#)

LSA-R.S. 33:4341, LA R.S. 33:4341

Current through the 2017 Second Extraordinary Session.

- (11) Other such activities as may be directed by the Mayor-President¹.

Section 4-07. Utilities Department.

A. The governing authority of the utilities department shall be the Lafayette Public Utilities Authority. The authority shall consist of those members of the City-Parish Council whose Council districts include sixty (60) percent or more of persons residing within the boundaries of the City of Lafayette as they exist on the date the charter becomes effective or as they may be changed in the future. If the boundaries of the City of Lafayette are changed, the latest census reports of the United States Bureau of the Census shall be the basis for determining the Council districts including sixty (60) percent or more of persons residing within the City of Lafayette.

B. The director of the utilities department shall be appointed by the Mayor-President¹, subject to approval by the authority, in accordance with provisions included in current or future bond resolutions and covenants.

C. The director of utilities shall direct and be responsible for:

- (1) Production and distribution of electricity.
- (2) Water production, treatment and distribution.
- (3) Sewerage collection, treatment and disposal.
- (4) Utility engineering services.
- (5) Supervising contract construction work for the utility system.
- (6) Maintaining utility equipment in cooperation with the central garage.
- (7) Reading of utility meters.
- (8) Other such activities as may be directed by the Mayor-President¹ and the authority which are necessary or incidental to the operation of the utility system.¹³

D. Nothing in this charter shall in any manner affect franchises and contracts in existence at the time this charter becomes effective for the remaining life of the aforementioned franchises and contracts.

E. The Lafayette Public Utilities Authority, subject to approval by the Mayor-President¹ and the City-Parish Council by ordinance, may expand the area of end user electric service only into areas authorized by R.S. 45:123 or other controlling state law, or into areas annexed into the City of Lafayette by the City-Parish Government. The foregoing notwithstanding, the Lafayette Public Utilities Authority may enter into contracts with

¹³ Section 4-07 C(8): Division of Communication Services is hereby created within Utilities (O-263-2004; (11-16-04)

governmental bodies exclusive of the City-Parish Government and other public or private utilities for other than end user service.

F. The utility department shall function in accordance with conditions included in current or future bond resolutions and covenants except that the reference to "city" therein shall refer to the Lafayette Public Utilities Authority.

G. Funds paid by the utility to the City-Parish in lieu of taxes shall be used only for programs and services within the City of Lafayette.

H. The authority shall fix rates, incur indebtedness, approve the utility budget, and approve proposals for the improvement and extension of the utilities.

I. A person residing in an area served by the utility department may appeal to the authority any proposed rate increases or issuance of bonds. The decision of the authority shall be final subject to appeal to the appropriate courts.

J. The authority shall submit annually to the Mayor-President¹ and members of the City-Parish Council a report on the operations of the utility department and projections for the future.

K. City-Parish Council Members serving on the authority shall receive no additional compensation.

Section 4-08. Utility System, Sale or Lease.

A. The Lafayette Public Utilities Authority shall not sell, lease or in any manner dispose of the utility system or any substantial part thereof without approval by a majority vote of the qualified electors residing within the boundaries of the City of Lafayette voting in an election called for that purpose. This shall not be construed to prevent the disposal, with the approval of the consulting engineers, of property which has become obsolete, unserviceable and not necessary for the efficient operation of the utility system. The proceeds of the sale of such property shall be used to purchase or construct other capital improvements for the utility system.

B. In the event of the sale or lease of the public utility, the proceeds shall be used for capital improvements in the City of Lafayette.

Section 4-09. Planning, Zoning and Codes Department.¹⁴

A. The director of the planning, zoning and codes department shall be appointed by the Mayor-President¹ from one or more qualified nominees

¹⁴ Section 4-09: Planning, Zoning & Codes Department renamed Planning, Zoning & Development Department. (O-153-2013; 09-12-13)

Section 2-09. Independent Audit.

The Council shall provide for an annual independent post fiscal year audit, and such additional audits as it deems necessary, of the accounts and other evidence of financial transactions of the City-Parish Government, including those of all City-Parish Government departments, offices or agencies. The Council shall designate a private auditor to make such audits. The private auditor shall be without personal interest in the affairs subject to audit, shall not participate in budget preparation and adoption, and shall be a certified public accountant or firm of such accountants. The audit shall be submitted to the Council at one of its regularly scheduled meetings and shall be a public record, and a summary thereof shall be published at least once in the official journal.

Section 2-10. Council Employees.

A. The Council shall appoint a Clerk of the Council who shall serve at the pleasure of the Council. The clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings, be official secretary of the Council and perform such other duties as are assigned to the position by this charter or by the Council.

B. The Council may, by ordinance, authorize the hiring of such other employees as may be necessary to assist the Council in carrying out its duties and responsibilities. Such employee shall serve at the pleasure of the Council.

C. The Council shall, by ordinance, fix the salaries of its employees.

Section 2-11. Action Requiring an Ordinance.

A. An act of the Council having the force of law shall be by ordinance. An act requiring an ordinance shall include but not be limited to those which:

- (1) Adopt or amend an administrative code.
- (2) Provide a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty may be imposed.
- (3) Levy taxes, assessments and charges.
- (4) Adopt the operating budget and capital improvement budget and appropriate funds for the City-Parish Government.

- (5) Grant, renew or extend a franchise.
- (6) Provide for raising revenue.
- (7) Regulate the rate or other charges for service by the City-Parish Government.
- (8) Authorize the borrowing of money, in any manner authorized by law.
- (9) Incur debt in any manner authorized by law.
- (10) Dispose of any real property owned by the City-Parish Government.
- (11) Convey or lease or authorize the conveyance or lease of any lands or property of the City-Parish Government.
- (12) Acquire real property on behalf of the City-Parish Government.
- (13) Adopt or modify the official map.
- (14) Adopt or modify regulations for review and approval of plats.
- (15) Adopt or modify subdivision controls or regulations.
- (16) Adopt or modify the zoning plan, maps and regulations.
- (17) Amend or repeal any ordinance previously adopted.
- (18) Propose amendments to this charter.

B. All ordinances shall be codified in accordance with Article VI, Section 10 of the constitution.

C. An act of the Council which is not to have the force of law may be enacted by resolution. A resolution may be used by the Council for purposes such as a formal expression or will of the Council; to authorize a person or persons to sign legal and financial documents for a project or purpose previously approved by ordinance; and as may be authorized by this charter. The Mayor-President's¹ veto authority shall not apply to resolutions.

D. All ordinances and resolutions shall be passed by the favorable vote of at least a majority of the authorized membership of the Council except as otherwise provided in this charter.

Section 2-12. Ordinances in General.

A. All proposed ordinances shall be introduced in writing at a meeting of the Council in the form required for adoption and, except for codifications, the operating budget and capital improvement budget, shall be confined to one subject expressed clearly in the title.

B. All proposed ordinances shall be read by title when introduced and published in the official journal by title within fifteen (15) days of introduction, except that ordinances proposing amendments to the charter shall be published in full. Except as otherwise provided in the section on "Emergency Ordinances," no ordinance shall be considered for final passage

West's Louisiana Statutes Annotated

Louisiana Revised Statutes

Title 33. Municipalities and Parishes (Refs & Annos)

Chapter 27. Cooperative Economic Development (Refs & Annos)

Part I. General Provisions (Refs & Annos)

LSA-R.S. 33:9031.1

§ 9031.1. Validation of cooperative endeavor agreements

Currentness

In order to provide a uniform, expeditious, and equitable procedure, with due regard for the public fisc and rights of persons in interest, for the judicial determination of the validity of any cooperative endeavor agreements authorized under this Chapter or generally by [Article VII, Section 14\(C\) of the Louisiana Constitution](#) and the transactions contemplated thereby; the provisions of Part XVI of Chapter 32 of Title 13 of the Louisiana Revised Statutes of 1950,¹ as amended, shall be applicable thereto, and suits to determine the validity of such cooperative endeavor agreements may be filed thereunder in the district court having jurisdiction for any party thereto as though such agreements constituted the issuance of bonds of a governmental unit.

Credits

Added by [Acts 2002, No. 78, § 2, eff. June 25, 2002](#).

Footnotes

¹ [R.S. 13:5121 et seq.](#)

LSA-R.S. 33:9031.1, LA R.S. 33:9031.1

Current through the 2017 Second Extraordinary Session.

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Louisiana Revised Statutes

Title 13. Courts and Judicial Procedure (Refs & Annos)

Chapter 32. Particular Classes of Actions and Cases (Refs & Annos)

Part XVI. Suits to Determine Validity of Governmental Bonds (Refs & Annos)

LSA-R.S. 13:5123

§ 5123. Proceedings by governmental unit to establish validity; procedure; parties defendant

[Currentness](#)

The governing body of any governmental unit proposing to issue or which is in the process of issuing bonds or has provided a new or different source of payment for outstanding bonds may bring at any time a proceeding in the district court having original jurisdiction over the matter, and in which such governmental unit is domiciled to establish the validity of such bonds, the legality of the election, if any, authorizing the issuance of such bonds, the validity of the action taken to provide a new source of security for outstanding bonds and all proceedings theretofore taken in connection with the authorization or issuance of such bonds and the validity of the tax, any lease or other means provided for the payment of such bonds, and the validity of all pledges of revenues and of all covenants and provisions which constitute a part of the contract between such governmental unit and the holders of such bonds. Such proceedings shall be brought by filing a motion for judgment describing such bonds and the proceedings had relative to the issuance thereof or the providing of a new or different source of payment therefor and alleging that such bonds when issued will be valid and legal obligations of the issuing governmental unit or that the action taken with respect to providing a new or different source of payment is valid and legal. In such motion for judgment the taxpayers, property owners and citizens of the issuing governmental units, including nonresidents owning property or subject to taxation therein, and all other persons interested in or affected in any way by the issuance of such bonds shall be made parties defendant.

Credits

Added by Acts 1972, No. 385, § 1, eff. July 26, 1972.

[Notes of Decisions \(7\)](#)

LSA-R.S. 13:5123, LA R.S. 13:5123

Current through the 2017 Second Extraordinary Session.

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Louisiana Revised Statutes

Title 33. Municipalities and Parishes (Refs & Annos)

Chapter 27. Cooperative Economic Development (Refs & Annos)

Part I. General Provisions (Refs & Annos)

LSA-R.S. 33:9031

§ 9031. Cooperative endeavors with public body

[Currentness](#)

For the purpose of aiding in the implementation of an economic development plan, any local governmental subdivision may cooperate or engage in cooperative endeavors with any economic development corporation or other local governmental subdivision or any other private or public entity or person.

Credits

Added by Acts 1978, No. 617, § 1. Amended by [Acts 2002, No. 78, § 2, eff. June 25, 2002](#).

[Notes of Decisions \(1\)](#)

LSA-R.S. 33:9031, LA R.S. 33:9031

Current through the 2017 Second Extraordinary Session.

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Louisiana Revised Statutes
Title 13. Courts and Judicial Procedure (Refs & Annos)
Chapter 32. Particular Classes of Actions and Cases (Refs & Annos)
Part XVI. Suits to Determine Validity of Governmental Bonds (Refs & Annos)

LSA-R.S. 13:5121

§ 5121. Definitions

Effective: May 22, 2012

[Currentness](#)

Wherever used in this title, unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural, shall be given the following respective interpretations:

(1) “Bonds” means any debt obligations issued by any governmental unit, as hereinafter defined, and shall include, but not by way of limitation, the following: bonds, refunding bonds, notes, and certificates payable from and secured by (a) ad valorem and other taxes, (b) other revenues from whatever source derived, and (c) local or special assessments.

(2) “Governmental unit” means the state of Louisiana, municipalities, parishes, parish and municipal school boards and districts, levee boards and districts, housing authorities, bridge authorities, community improvement agencies, redevelopment agencies, all other political subdivisions of the state, public trusts, corporations, districts, boards, authorities, agencies, and units of local government and nonprofit corporations created by or governed by the governing authorities of parishes or municipalities, any special service districts, such as water, sewerage, garbage, and lighting districts created by or pursuant to legislative acts and any other districts, boards, authorities, and agencies of the state of Louisiana authorized to issue bonds.

(3) “Governing body” means the board or body in which the bond issuing power of a governmental unit is vested.

Credits

Added by Acts 1972, No. 385, § 1, eff. July 26, 1972. Amended by [Acts 2012, No. 212, § 1, eff. May 22, 2012](#).

[Notes of Decisions \(5\)](#)

LSA-R.S. 13:5121, LA R.S. 13:5121

Current through the 2017 Second Extraordinary Session.

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Louisiana Revised Statutes

Title 13. Courts and Judicial Procedure (Refs & Annos)

Chapter 32. Particular Classes of Actions and Cases (Refs & Annos)

Part XVI. Suits to Determine Validity of Governmental Bonds (Refs & Annos)

LSA-R.S. 13:5124

§ 5124. Service by publication of motion for judgment; parties defendant; notification

Effective: May 22, 2012

[Currentness](#)

A. (1) All such parties shall be served by publishing the motion for judgment in a newspaper published in or having general circulation in such governmental unit in the manner hereinafter set forth. Upon the filing of the motion for judgment, the court shall enter an order requiring the publication of the motion two times within a period of fifteen consecutive calendar days from the date of the issuance of the order, specifying the dates for publication thereof with the first publication as hereinabove provided to be not later than eight days from and after the date of the issuance of the order, and at the same time fix a time and place for hearing the proceeding, which time and place shall be published with the motion for judgment. The date fixed for the hearing shall be at least ten days, but not more than thirteen days, after the second publication of such motion for judgment.

(2) By publication of such motion for judgment, all taxpayers, property owners, and citizens of such governmental unit including nonresidents owning property or subject to taxation therein, and all other persons having or claiming any right, title, or interest in any property or funds to be affected in any way by the issuance of such bonds, or having or claiming to have any right or interest in the subject matter of such motion for judgment, shall be considered as parties defendant in such proceedings and as having been duly served, and the court shall have jurisdiction of them the same as if each of them were named individually as a party defendant in such motion for judgment and personally served with process.

B. The party filing a motion for judgment shall also cause notification of the filing to be made upon the State Bond Commission and the attorney general by mailing a certified copy of the motion for judgment by registered or certified mail, with return receipt requested. The State Bond Commission shall establish and maintain on its website an online database of such motions for judgment and shall post to such database within two days of receipt the caption of the motion for judgment, including the parties, the docket number, judicial district, and parish in which the motion for judgment is filed. The State Bond Commission may remove from an online database on its website such motions and captions after three years from their initial posting on the website. No judgment can be rendered until the party filing a motion for judgment files in the record an affidavit of the individual who mailed the motion for judgment to the State Bond Commission and attorney general, showing that it was properly addressed, with sufficient postage affixed, and the date it was deposited in the United States mail, to which shall be attached the return receipt thereon.

Credits

Added by Acts 1972, No. 385, § 1, eff. July 26, 1972. Amended by Acts 1975, No. 230, § 1, eff. July 16, 1975; [Acts 1995, No. 308, § 1](#); [Acts 2012, No. 212, § 1, eff. May 22, 2012](#).

Notes of Decisions (2)

LSA-R.S. 13:5124, LA R.S. 13:5124

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Title 13. Courts and Judicial Procedure (Refs & Annos)

Chapter 32. Particular Classes of Actions and Cases (Refs & Annos)

Part XVI. Suits to Determine Validity of Governmental Bonds (Refs & Annos)

LSA-R.S. 13:5126

§ 5126. Answer by party defendant; intervention by interested parties;
determination of questions; orders; precedence over other business

Currentness

Any party defendant may answer such motion for judgment within seven days after the second publication thereof but not thereafter. Any property owner, taxpayer, citizen, or other person in interest may become a party to said proceedings by pleading to the motion within seven days after the second publication thereof, or thereafter by intervention upon leave of court. In the event no answers or pleadings are filed by any person with respect to the motion or judgment within the time set forth in the preceding sentences of this Section, the plaintiff may file a motion requesting the court to consider and pass upon questions certified therein in rendering its judgment. At the time and place designated in the order for hearing, the judge shall proceed to hear and determine all questions of law and fact in said cause and may make such orders as to the proceedings and such adjournments as will enable him properly to try and determine the same and to render a final judgment therein with the least possible delay. To the extent possible and practicable under the circumstances, judgment shall be rendered within ten days after the hearing is concluded.

Credits

Added by Acts 1972, No. 385, § 1, eff. July 26, 1972. Amended by Acts 1975, No. 230, § 1, eff. July 16, 1975.

Notes of Decisions (3)

LSA-R.S. 13:5126, LA R.S. 13:5126

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Title 13. Courts and Judicial Procedure (Refs & Annos)

Chapter 32. Particular Classes of Actions and Cases (Refs & Annos)

Part XVI. Suits to Determine Validity of Governmental Bonds (Refs & Annos)

LSA-R.S. 13:5130

§ 5130. Bonds invalidated only for substantial defects; matters of form disregarded

[Currentness](#)

No court in which a proceeding to invalidate or sustain bonds is brought shall invalidate the bonds unless it finds substantial defects, material errors and omissions in the incidents of such bond issue. Matters of form shall be disregarded.

Credits

Added by Acts 1972, No. 385, § 1, eff. July 26, 1972.

[Notes of Decisions \(7\)](#)

LSA-R.S. 13:5130, LA R.S. 13:5130

Current through the 2017 Second Extraordinary Session.

West's Louisiana Statutes Annotated

Louisiana Revised Statutes

Title 13. Courts and Judicial Procedure (Refs & Annos)

Chapter 32. Particular Classes of Actions and Cases (Refs & Annos)

Part XVI. Suits to Determine Validity of Governmental Bonds (Refs & Annos)

LSA-R.S. 13:5129

§ 5129. Decree validating bonds binding and conclusive

Currentness

In the event the decree of the court validates the bonds or validates the action taken to provide a new or different source of payment for the bonds, and no appeal is taken within the time above prescribed, or if appeal is taken and the decree of the court is affirmed, such decree shall be forever binding and conclusive as to the validity of the bonds, the validity of the tax, any lease or other means provided for the payment of such bonds and the validity of all pledges of revenues and of all covenants and provisions contained in the instrument or proceedings authorizing or providing for the issuance of such bonds, and as to all matters adjudicated and as to all objections presented or which might have been presented in such proceeding, and shall constitute a permanent injunction against the institution by any person of any action or proceeding contesting the validity of the bonds or any other matter adjudicated or which might have been called in question in such proceedings.

Credits

Added by Acts 1972, No. 385, § 1, eff. July 26, 1972.

Notes of Decisions (6)

LSA-R.S. 13:5129, LA R.S. 13:5129

Current through the 2017 Second Extraordinary Session.

