

2019 Regular Session

HOUSE BILL NO. 496

BY REPRESENTATIVE ABRAMSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CAPITAL OUTLAY: Establishes the Louisiana Capital Outlay Revolving Loan Bank to provide financial assistance to local governments and political subdivisions for certain capital infrastructure projects

1 AN ACT

2 To enact Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to

3 be comprised of R.S. 39:462.1 through 462.5, and 1367(E)(2)(b)(vii), relative to the

4 capital outlay program; to provide with respect to the funding and financing of

5 certain capital outlay projects; to provide a funding source for certain capital outlay

6 expenditures by local governments; to establish the Louisiana Capital Outlay

7 Revolving Loan Bank; to provide for a board of directors to govern the bank; to

8 provide for membership, duties, and authority of the board; to provide for the

9 adoption of bylaws, rules, and regulations by the board; to provide for the

10 capitalization, administration, investment, and disposition of monies received by the

11 bank; to authorize the bank to incur debt and issue bonds, notes, or other evidences

12 of indebtedness and to guarantee the debt of other certain entities; to authorize loans

13 from the bank to nonstate public entities for certain eligible infrastructure projects;

14 to provide procedures for local governments to enter into such indebtedness and

15 provide for repayment; to exempt interest on such indebtedness from taxation; to

16 provide with respect to loan forgiveness; to provide for effectiveness; and to provide

17 for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 39:462.1 through 462.5, and 1367(E)(2)(b)(vii) are hereby
4 enacted to read as follows:

5 CHAPTER 3-C. LOUISIANA CAPITAL OUTLAY REVOLVING LOAN BANK

6 §462.1. Louisiana Capital Outlay Revolving Loan Bank; purposes

7 A. The legislature finds that:

8 (1) State government has assisted in funding many local capital outlay
9 projects that are necessary to provide local facilities, but the result of this state
10 funding has been to either reduce the amount of funding available for state programs
11 and services or ignore the need for assistance to local governments.

12 (2) Even with established state and federal government programs to assist
13 local governments with needed and necessary funding for infrastructure projects,
14 including those for clean water and sewerage projects, local governments encounter
15 financial challenges in meeting match funding requirements and other required local
16 contributions required by the existing state capital outlay program and other
17 infrastructure programs.

18 (3) The most effective way of accomplishing the goal of providing for local
19 infrastructure project financing and for preservation of the state fisc over the long
20 term is to establish a low interest rate revolving loan fund to be available for local
21 infrastructure projects to assist participating borrowers in meeting required match
22 requirements and other required local contributions, and provide an alternative
23 means to fund appropriate local infrastructure projects that would otherwise compete
24 with scarce state funding for state projects.

25 B. In order to continue to provide match funds and other required local
26 contributions to local governments for the planning, design, construction, and
27 maintenance connected with needed infrastructure projects, it is the purpose of this
28 Chapter to do the following:

1 (1) Provide for the establishment and administration of a bank to make loans
2 from a revolving loan fund and to provide other assistance to local governments for
3 use in meeting match funding requirements or other required local contributions in
4 carrying out or proposing to carry out eligible infrastructure projects, and enter into
5 cooperative endeavor agreements and interstate compacts as may be necessary and
6 proper to fulfill the purposes of this Chapter.

7 (2) Provide for receipt, administration, and use by the bank of federal funds
8 contributed to it pursuant to federal law, rule, or regulation, funds appropriated or
9 otherwise provided by the state or any local governing authority, and funds derived
10 or contributed from, or otherwise provided by, any other source.

11 (3) Authorize the bank to establish and administer a revolving loan fund for
12 eligible infrastructure projects and to use the sums on deposit in, credited to, or
13 otherwise received by the bank for the purposes provided in this Chapter.

14 §462.2. Louisiana Capital Outlay Revolving Loan Bank; definitions

15 The following terms as used in this Chapter shall have the following
16 meanings:

17 (1) "Approved infrastructure program" means a program through which an
18 eligible infrastructure project may be funded including but not limited to the
19 following programs:

20 (a) State Capital Outlay Budget Program as provided in R.S. 39:101 et seq.,
21 administered by the Division of Administration, office of facility planning and
22 control.

23 (b) Clean Water State Revolving Fund established pursuant to R.S. 30:2301
24 et seq.

25 (c) Drinking Water Revolving Loan Fund established pursuant to R.S.
26 40:2821 et seq.

27 (2) "Bank" means the Louisiana Capital Outlay Revolving Loan Bank
28 established under this Chapter.

1 (3) "Bank loan" means the loan from the bank to the local government
2 evidenced by a bond, note, or other evidence as provided in this Chapter.

3 (4) "Board" means the board of directors of the Louisiana Capital Outlay
4 Revolving Loan Bank.

5 (5) "Certifying department" means a state department or agency with
6 authority to administer and approve an eligible infrastructure project in accordance
7 with laws and regulations governing the respective approved infrastructure program.

8 (6) "Eligible infrastructure project" or "project" means a plan or proposal
9 approved by the respective certifying department with legal authority to administer
10 an approved infrastructure program, which would require or use a local match or
11 other required local contribution, or require funding for eligible infrastructure project
12 costs that can be provided by the bank.

13 (7) "Local" or "local government" means a public entity as defined in Article
14 VII, Section 44 of the Constitution of Louisiana.

15 (8) "Revolving loan fund" means a fund established in law to be used to
16 make loans through the bank with funding from unclaimed property.

17 §462.3. Louisiana Capital Outlay Revolving Loan Bank; structure; powers; duties

18 A. There is hereby established within the Department of the Treasury the
19 Louisiana Capital Outlay Revolving Loan Bank, hereinafter referred to as "bank",
20 which shall be allocated to the Department of the Treasury in accordance with the
21 provisions of Article IV, Section 1 and Article XIV, Section 6 of the Constitution of
22 Louisiana.

23 B.(1) The bank shall be governed by a board of directors composed of the
24 following members:

25 (a) The state treasurer, or his designee.

26 (b) One member appointed by the state treasurer who possesses no less than
27 five years of business or commercial lending experience.

28 (c) One member appointed by the governor who shall have experience with
29 any of the following:

1 (i) The Clean Water State Revolving Loan Fund administered by the
2 Department of Environmental Quality.

3 (ii) The Drinking Water Revolving Loan Fund administered by the office of
4 public health.

5 (iii) The state capital outlay budget process administered by the Division of
6 Administration, office of facility planning and control.

7 (d) One member appointed by the speaker of the House of Representatives
8 who possesses no less than five years of business or commercial lending experience.

9 (e) One member appointed by the president of the Senate who possesses no
10 less than five years of business or commercial lending experience.

11 (f) One member appointed by the state treasurer from a list of three nominees
12 submitted by the Louisiana Municipal Association who possesses no less than five
13 years of business or commercial lending experience.

14 (g) One member appointed by the state treasurer from a list of three
15 nominees submitted by the Louisiana Police Jury Association who possesses no less
16 than five years of business or commercial lending experience.

17 (2) The board shall adopt bylaws for its own internal organization and
18 governance, including the election of officers and conduct of meetings in accordance
19 with the Open Meetings Law.

20 (3) The board shall promulgate rules and regulations, in accordance with the
21 Administrative Procedure Act, for the appointment of committees, for consideration
22 and approval or rejection of applications for bank loans, and for the administration
23 of the bank and fulfillment of any and all responsibilities and duties and exercise of
24 any rights and authority of the bank as provided in this Chapter.

25 (4) The board shall exercise its duties and responsibilities and grant or deny
26 approval to applicants, separate and apart from the independent duties,
27 responsibilities, and review processes of the State Bond Commission.

28 C. The board shall have authority and responsibility for review and approval
29 or denial of applications for bank loans or other assistance requested by a local

1 government for an eligible infrastructure project. No application for a bank loan or
2 other assistance shall be made without the prior approval of the proposed project by
3 the respective certifying department. Each respective certifying department shall
4 retain its discretion, authority, and control over all aspects of the review of any and
5 all construction, engineering, and related technical aspects of a project in accordance
6 with the rules and regulations of the respective approved infrastructure program.

7 D. The bank shall have the powers necessary or convenient to carry out its
8 mission and purpose described in this Chapter, including the following:

9 (1) To sue and be sued.

10 (2) To adopt an official seal and alter the same at its pleasure.

11 (3) To appoint an executive director to administer the affairs of the bank,
12 who shall be appointed and serve at the pleasure of the board.

13 (4) To make and execute contracts and other agreements, instruments, and
14 documents necessary or convenient for the exercise of its powers and functions under
15 this Chapter, with any federal or state government agency, local government, or
16 other public or private entity, and to act in furtherance of its interests therein,
17 including but not limited to credit enhancement devices, guarantees, pledges, interest
18 rate swap agreements, contracts, and agreements with federal agencies, local
19 government entities, public trusts, departments, boards, agencies, commissions of the
20 state, and other parties to the extent necessary or convenient for the implementation
21 of the purpose of the bank as provided for in this Chapter.

22 (5) To receive and administer grants from the federal government or its
23 agencies allotted to the state for the capitalization of the bank, any fund administered
24 by the bank, state funds when required or otherwise made available, or any other
25 funds or property loaned, granted, donated or otherwise provided for the purposes
26 established in this Chapter, subject to compliance with the terms of a federal or state
27 grant, if any, and other applicable state or federal law, rule, or regulation.

28 (6) To make loans from a revolving loan fund, federal funds, or funds on
29 deposit in, credited to, or to be received by the bank, and interest on the loans shall

1 be at or below market interest rates for a period not to exceed twenty years from the
2 completion of the construction of the project.

3 (7) To provide the following assistance regarding local government projects:

4 (a) Offer and make or enter into loan guarantees, letters of credit, grants, or
5 other forms of assistance.

6 (b) Provide payments to reduce interest on loans.

7 (c) Make bond interest subsidies for bonds.

8 (d) Provide bond guarantees.

9 (e) Assist with respect to the non-federal share of project costs.

10 (f) Finance the cost and the preparation of project plans, specifications, and
11 estimates for construction.

12 (g) Secure the principal, interest, and premium, if any, on bonds or other
13 evidences of indebtedness issued for a project, if the proceeds of the bonds are:

14 (i) Deposited into the revolving loan fund of the bank.

15 (ii) Used only to pay for a project or to refund any obligation, the proceeds
16 of which are used to pay for a project to the extent provided and allowed by the
17 terms the obligation of a federal grant, or the terms of any other type of loan, grant,
18 or donation received for the purposes provided for in this Chapter.

19 (h) Improve credit market access by guaranteeing, arranging, or purchasing
20 bond insurance or other credit enhancement devices for debt obligations issued for
21 an eligible infrastructure project.

22 (8) To finance any programs which the federal government authorizes by a
23 grant made for purposes of the revolving loan fund or made for purposes for which
24 the revolving loan fund is authorized.

25 (9) To provide for any other expenditure consistent with a federal grant
26 program and state law.

27 (10) To establish, by rule, a schedule of reasonable fees and charges to pay
28 the costs of administering the bank.

1 E. Money needed for the operation of the bank or on deposit in the revolving
2 loan fund shall be invested by the state treasurer as provided by law, except as may
3 be limited by federal law or the terms and conditions of any grant related to money
4 deposited in the revolving loan fund. All interest earned on investments shall be
5 credited to the revolving loan fund.

6 §462.4. Revolving loan fund; loans for eligible infrastructure projects; authorizing
7 and issuing debt; security; interest rates; tax exemption

8 A.(1) Notwithstanding any provision of law to the contrary, and in addition
9 to the authority to lend or borrow money or incur or guarantee indebtedness provided
10 by any other provisions of law, sums on deposit in and credited to the bank may be
11 loaned from the revolving loan fund to local governments for use in connection with
12 eligible infrastructure projects. However, this Section shall not be deemed to be the
13 exclusive authority under which a local government may otherwise borrow money
14 or incur indebtedness from other sources.

15 (2)(a) Local governments may enter into bank loans from the revolving loan
16 fund in accordance with this Section, but no such loan shall be made nor debt
17 evidencing the loan shall be issued or incurred without the approval of the board,
18 followed by written approval of the State Bond Commission.

19 (b) No money in the revolving loan fund may be expended or otherwise
20 used, nor any bonds or other evidences of indebtedness or other obligations issued
21 or insured for any specific project or for any payment, expenditure, commitment,
22 pledge, loan, letter of credit, guarantee, subsidy, or other activity related to projects
23 or the financing thereof without the approval of the board, followed by written
24 approval of the State Bond Commission.

25 B. All bonds, notes, or other evidences of indebtedness of any local
26 government issued to represent a bank loan shall be authorized and issued pursuant
27 to a resolution or ordinance of the governing authority of that entity, hereinafter
28 referred to collectively as "resolution". The resolution shall prescribe the form and
29 details thereof, including the terms, security for, manner of execution, repayment

1 schedule, and redemption features thereof and the resolution may provide that an
2 officer of that entity may execute in connection with such obligation any related
3 contract, including but not limited to a credit enhancement device, indenture of
4 trust, loan agreement, pledge agreement, or other agreement or contract needed to
5 accomplish the purposes for which the evidence of indebtedness is given, in
6 substantially the form referenced in the resolution, but which final executed credit
7 enhancement device, indenture of trust, loan agreement, pledge, or other contract or
8 agreement may contain such changes, additions and deletions as shall in the sole
9 opinion of the executing officer be appropriate under the circumstances. The
10 resolution shall include a statement as to the maximum principal amount of any such
11 obligation, the maximum interest rate to be incurred or borne by said obligation or
12 guaranteed by said obligation, the maximum redemption premium, if any, and the
13 maximum term in years for such obligation, guarantee, or pledge.

14 C. Notwithstanding any other provision of law to the contrary, a local
15 government, upon entering into a bank loan as provided in this Chapter, may
16 dedicate and pledge a portion of any revenues it has available to be pledged and
17 dedicated, including but not limited to revenues from the general revenue fund, sales
18 taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes, for a
19 sufficient term to repay the obligation from the date of project completion for
20 repayment of the principal of, interest on, and any premium, administrative fee or
21 other fee or cost incurred, in connection with the loan.

22 D. Any evidence of indebtedness authorized pursuant to this Chapter shall
23 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the
24 resolution authorizing and providing for the issuance thereof. Any such rate or rates
25 of interest may be at fixed, variable, or adjustable rates.

26 E. The general laws of the state governing fully registered securities of
27 public entities shall be applicable to the bonds, notes, or other evidences of
28 indebtedness issued pursuant to this Section.

1 F. A resolution authorizing a bank loan pursuant to this Section shall be
2 published once in the official journal or a newspaper of general circulation in the
3 parish or local government entity incurring the loan. It shall not be necessary to
4 publish exhibits to the resolution, but the exhibits shall be made available for public
5 inspection at the offices of the governing authority of the parish, municipality, or
6 other political subdivision at reasonable times and notice of the availability of these
7 documents shall be stated in the publication within the official journal or newspaper
8 of general circulation in the parish or local government entity incurring the loan. For
9 a period of thirty days after the date of publication, any person in interest may
10 contest the legality of the resolution authorizing the evidence of indebtedness or
11 other bank loan and any provision thereof made for the security and payment of the
12 debt. After such thirty day period, no one shall have any cause or right of action to
13 contest the regularity, formality, legality, or effectiveness of the resolution and the
14 provisions thereof or of the bonds, notes, or other evidences of indebtedness or other
15 bank loan, or to provide for the payment of the debt, or the legality thereof, and all
16 of the provisions of the resolution and such evidence of indebtedness shall be
17 conclusively presumed, and no court shall have authority or jurisdiction to inquire
18 into the matter.

19 G. Interest on bonds, notes, or other evidences of indebtedness issued or any
20 bank loan entered into under the authority of this Section shall be exempt from all
21 taxation. Such bonds, notes, or other evidences of indebtedness or bank loans may
22 be used for deposit with any officer, board, municipality, or other political
23 subdivision of the state, in any case where, by present or future laws, deposit of
24 security is required for state funds.

25 §462.5. General power to issue and incur debt; to issue and undertake guarantees of
26 the debt of other entities

27 A. The bank may issue, incur, and deliver debt evidenced by bonds, notes,
28 or other evidences of indebtedness, payable from or secured by sums deposited in,
29 credited to, or to be received by the bank. The bank is further authorized to

- 1 (vii) Any bond, note, certificate, warrant, reimbursement obligation, or other
2 evidence of indebtedness issued pursuant to R.S. 39:462.1, et seq.
- 3 Section 2. This Act shall become effective on July 1, 2019; if vetoed by the governor
4 and subsequently approved by the legislature, this Act shall become effective on July 1,
5 2019, or on the day following such approval by the legislature, whichever is later.

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)]

HB 496 Original

2019 Regular Session

Abramson

Abstract: Establishes the La. Capital Outlay Revolving Loan Bank to provide financial assistance for eligible infrastructure projects of local governments and political subdivisions.

Proposed law provides definitions for purposes of proposed law including those for "approved infrastructure program", "eligible infrastructure project", "certifying department", and "local government".

Proposed law establishes within the state treasury, the La. Capital Outlay Revolving Loan Bank, hereinafter "bank", and provides for it's structure, powers, and duties.

Proposed law provides that the bank shall be governed by a board of seven directors, hereinafter "board", as follows:

- (1) The state treasurer, or his designee.
- (2) One member appointed by the state treasurer
- (3) One member appointed by the governor who has experience with the Clean Water State Revolving Loan Fund, the Drinking Water Revolving Loan Fund, or the state capital outlay budget process.
- (4) One member appointed by the speaker of the House of Representatives.
- (5) One member appointed by the president of the Senate.
- (6) One member appointed by the state treasurer from a list of three nominees submitted by the Louisiana Municipal Association.
- (7) One member appointed by the state treasurer from a list of three nominees submitted by the Louisiana Police Jury Association.

Proposed law requires the appointees of the state treasurer, the speaker of the House, and the president of the Senate to possess no less than five years of business or commercial lending experience.

Proposed law provides that the board may appoint an executive director to administer the affairs of the bank, who shall be appointed and serve at the pleasure of the board.

Proposed law requires the board to adopt bylaws and to promulgate rules and regulations in accordance with the Administrative Procedure Act concerning its fulfillment of the requirements of proposed law.

Proposed law provides that the board shall exercise its duties and responsibilities under proposed law separate and apart from the independent duties, responsibilities and review processes of the State Bond Commission.

Proposed law provides for the powers of the board and the bank, which include the following:

- (1) To execute contracts and other instruments necessary for the exercise of its powers and functions, including credit enhancement devices, guarantees, pledges, and interest rate swap agreements, necessary for the implementation of the purpose of the bank.
- (2) To receive and administer all monies and any other property available for purposes of the bank.
- (3) To make low interest loans from a revolving loan fund or from any other monies on deposit with the bank.
- (4) To provide the following assistance regarding local government capital infrastructure projects:
 - (a) Offer or enter into loan guarantees, letters of credit, grants, or other forms of assistance, payments to reduce interest on loans, bond interest subsidies for bonds, provide bond guarantees, and assistance with respect to the non-federal share of project costs.
 - (b) Finance the cost and the preparation of project plans, specifications, and estimates for projects.
 - (c) Secure the principal, interest, and premium, on bonds or other evidences of indebtedness issued for a project if the proceeds of the bonds are deposited into the revolving loan fund of the bank and are used only for the expenses of the project.
 - (d) Improve credit market access by guaranteeing, arranging, or purchasing bond insurance or other credit enhancement devices for debt obligations issued for the project.
 - (e) Finance programs authorized under a federal grant.
 - (f) Establish by rule, a schedule of reasonable fees and charges to pay the costs of administering the bank.

Proposed law requires that before a loan or other assistance may be requested from the bank, the project shall first have been approved by the "certifying department" of state government that has authority to administer and approve the project in accordance with present law governing the respective approved infrastructure program.

Proposed law, with respect to a bond, note, or other evidence of indebtedness of a local government issued through a bank loan, requires the same requirements concerning interest rates and public notice as provided in present law concerning the adoption of a resolution or ordinance authorizing the issuance of indebtedness.

Proposed law authorizes a local government to pledge as security for a bank loan and any ancillary fees or other costs, any revenues from its general revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes.

Proposed law exempts from taxation any interest on bonds, notes, or other evidences of indebtedness issued through a bank loan.

Proposed law for purposes of security of debt or performance obligations of debt for projects, authorizes the bank to issue and deliver evidences of its guarantee of the debt of other entities, and to execute pledges of the monies on deposit in the bank, including payments pursuant to letters of credit. All evidences of indebtedness, guarantees, and pledges delivered pursuant to this authority shall constitute limited obligations of the bank and shall not be secured by the full faith and credit of the state.

Proposed law provides that the withdrawal of monies from the revolving loan fund to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee of any debt, or pledge to secure any debt shall not constitute or be subject to appropriation by the legislature.

Present law provides for the definition of "net state tax supported debt" and includes those issuances excluded from the definition.

Proposed law retains present law and adds as an exclusion, any bond, note, certificate, warrant, reimbursement obligation, or other evidence of indebtedness issued pursuant to proposed law.

Effective July 1, 2019.

(Adds R.S. 39:462.1 through 462.5 and 1367(E)(2)(b)(vii))