

2019 Regular Session

HOUSE BILL NO. 3

BY REPRESENTATIVE ABRAMSON

CAPITAL OUTLAY: Provides for the Omnibus Bond Act

1 AN ACT

2 To enact the Omnibus Bond Authorization Act of 2019, relative to the implementation of  
3 a five-year capital improvement program; to provide for the repeal of certain prior  
4 bond authorizations; to provide for new bond authorizations; to provide for  
5 authorization and sale of such bonds by the State Bond Commission; to provide  
6 relative to the submission of capital outlay applications; to require approval of the  
7 commissioner of administration under certain circumstances; to require the capital  
8 outlay application to include certain information; to require the submission of a  
9 certificate of completion under certain circumstances; to provide relative to line of  
10 credit recommendations for capital outlay projects; to require the approval of certain  
11 line of credit recommendations; to provide for an effective date; and to provide for  
12 related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. The legislature hereby recognizes that the Constitution of Louisiana  
15 provides in Article VII, Section 11, that the governor shall present to the legislature a five-  
16 year Capital Outlay Program and request implementation of the first year of such program,  
17 and that the capital outlay projects approved by the legislature are to be made part of the  
18 comprehensive state capital budget which shall, in turn, be adopted by the legislature.

19 Further, all projects in such budget adopted by the legislature requiring bond funds must be  
20 authorized as provided in Article VII, Section 6 of the Constitution of Louisiana. The  
21 legislature finds that over a period of years the legislature has enacted numerous bond

1 authorizations, but due to inflation and the requirements of specificity of amount for each  
2 project, impossibility, or impracticability, many of the projects cannot be undertaken. All  
3 of the unissued bonds must be listed in the financial statements of the state prepared from  
4 time to time and in connection with the marketing of bonds, and are taken into account by  
5 rating agencies, prospective purchasers, and investors in evaluating the investment quality  
6 and credit worthiness of bonds being offered for sale. The continued carrying of the  
7 aforesaid unissued bonds on the financial statements of the state under the above described  
8 circumstances operates unnecessarily to the financial detriment of the state. Accordingly,  
9 the legislature deems it necessary and in the best financial interest of the state to repeal all  
10 Acts, except any Act authorizing the issuance of refunding bonds and Act 41 of the 2006  
11 First Extraordinary Session, providing for the issuance of general obligation bonds in the  
12 state which cannot be issued for the projects contemplated, and in their stead to reauthorize  
13 general obligation bonds of the state for those projects deemed to be essential, and to  
14 authorize new projects.

15 Section 2. It is the intent of the legislature that this Act shall constitute the Omnibus  
16 Bond Authorization Act of 2019 and, together with any Act authorizing the issuance of  
17 refunding bonds and Act 41 of the 2006 First Extraordinary Session, shall provide bond  
18 authorization, as required by Article VII, Section 6 of the Constitution of Louisiana, for  
19 those projects to be funded totally or partially by the sale of general obligation bonds and  
20 included in House Bill No. 2 of the 2019 Regular Session as finally enacted into law (2019  
21 Capital Outlay Act). It is the further intent of the legislature that in this year and each year  
22 hereafter an Omnibus Bond Authorization Act shall be enacted providing for the repeal of  
23 state general obligation bond authorizations for projects no longer found feasible or  
24 desirable, the reauthorization of those bonds not sold during the prior fiscal year for projects  
25 deemed to be of such priority as to warrant such reauthorization, and to enact new  
26 authorization for projects found to be needed for capital improvements.

27 Section 3. Except as hereinafter provided, all prior Acts of the legislature authorizing  
28 the issuance of general obligation bonds of the state of Louisiana shall be and the same are  
29 hereby repealed in their entirety, including without limitation House Bill No. 3 of the 2018  
30 Second Extraordinary Session of the Louisiana Legislature as finally enacted into law (2018

1 Omnibus Bond Authorization Act) and any Acts heretofore repealed with such Act. This  
2 repeal shall not be applicable to any Act providing for the issuance of refunding bonds nor  
3 to Act 41 of the 2006 First Extraordinary Session, and such Acts shall remain in full force  
4 and effect and shall not be affected by the provisions of this Act. In addition, the repeal shall  
5 not in any manner affect the validity of any bonds heretofore issued pursuant to any of the  
6 bond authorizations repealed hereby.

7 Section 4. To provide funds for certain capital improvement projects the State Bond  
8 Commission is hereby authorized pursuant to Article VII, Section 6 of the Constitution of  
9 Louisiana to issue general obligation bonds or other general obligations of the state for  
10 capital improvements for the projects, and subject to any terms and conditions set forth on  
11 the issuance of bonds or the expenditure of monies for each project as is provided for in the  
12 2019 Capital Outlay Act or the provisions of this Act.

13 Section 5.(A) To provide funds for certain capital improvement projects authorized  
14 prior to this Act and by this Act, which projects are designed to provide for reimbursement  
15 of debt service on general obligation bonds, the State Bond Commission is hereby authorized  
16 pursuant to Article VII, Section 6 of the Constitution of Louisiana, to issue general  
17 obligation bonds of the state, hereinafter referred to as "project bonds", for capital  
18 improvements for the projects and subject to any terms and conditions set forth on the  
19 issuance of bonds or the expenditure of monies for each such project as provided in the 2019  
20 Capital Outlay Act the terms of which require such reimbursement of debt service.

21 (B) Without affecting, restricting, or limiting the pledge herein made of the full faith  
22 and credit of the state of Louisiana to the payment of the general obligation bonds authorized  
23 by this Section and without affecting, restricting, or limiting the obligation of the state to pay  
24 the same from monies pledged and dedicated to and paid into the Bond Security and  
25 Redemption Fund, but in order to decrease the possible financial burden on the general funds  
26 of the state resulting from this pledge and obligation, the applicable management board,  
27 governing body, or state agency for which any of such project bonds are issued, in the fiscal  
28 year in which such project bonds are issued and in each fiscal year thereafter until such  
29 project bonds and the interest thereon are paid, shall transfer and make available to the state  
30 treasury, for deposit in the Bond Security and Redemption Fund, designated student fees or

1 revenues or other revenues in an amount equal to the debt service on such project bonds in  
2 such fiscal year. In addition, the applicable management board, governing body, or state  
3 agency, in the fiscal year in which such project bonds are issued and in each of the nine  
4 immediately succeeding fiscal years thereafter, shall transfer and make available to the state  
5 treasury from designated student fees or revenues or other revenues, for credit to a  
6 reimbursement reserve account for such project bonds which shall be established in an  
7 account designated in the reimbursement contract hereafter provided for, monies in an  
8 amount equal to one-tenth of the average annual debt service on such project bonds, and  
9 each such reimbursement reserve account thereafter shall be maintained in said minimum  
10 amount by further transfers, if necessary, from designated student fees or revenues or other  
11 revenues by the applicable management board, governing body, or state agency to the state  
12 treasury. Each such reimbursement reserve account shall be used, if necessary, solely to  
13 make the reimbursement payments herein obligated to be made to the state treasury. When  
14 the general obligation bonds and the interest thereon issued hereunder have been paid, any  
15 amount remaining in the reimbursement reserve account, as prorated to such authorized  
16 project, shall be transferred by the state treasurer to the applicable management board,  
17 governing body, or state agency.

18 (C) No project bonds authorized by this Section shall be issued for any authorized  
19 project unless and until a reimbursement contract has been entered into and executed  
20 between the applicable management board, governing body, or state agency and the State  
21 Bond Commission pertaining to the reimbursement payment and reimbursement reserve  
22 account payments for such project. The contract shall require payment into the state treasury  
23 of designated student fees or revenues or other revenues in an amount sufficient to reimburse  
24 the cost to the state of the principal, interest, and premium, if any, obligated to be paid by  
25 the state on such project bonds. The State Bond Commission shall not be required to  
26 execute any such reimbursement contract unless the estimates and projections of the  
27 designated student fees or revenues or other revenues available for payment into the state  
28 treasury thereunder for the authorized projects are sufficient to reimburse the costs of the  
29 principal, interest, and premium, if any, on the project bonds. A reimbursement contract  
30 hereunder shall be authorized by resolution of the applicable management board, governing

1 body, or state agency, or board or by act of the chief executive officer if no governing board  
2 exists.

3 This authorization shall provide for the dates, amounts, and other details for the  
4 payments required to be made to the state treasury and for the reserve account. The  
5 authorization may contain such covenants with the State Bond Commission regarding the  
6 fixing of rates for fees and charges or revenues and such other covenants and agreements  
7 with the State Bond Commission as will assure the required payments to the state treasury.  
8 The contract shall be subject to approval by the Office of the Attorney General and the State  
9 Bond Commission and, when so accepted and approved, shall conclusively constitute and  
10 be the reimbursement contract for an authorized project, as required hereunder.

11 (D) The obligation to make the reimbursement payments as required by a  
12 reimbursement contract may be represented by the issuance by the applicable management  
13 board, governing body, or state agency of its nonnegotiable revenue obligation in the form  
14 of a bond or other evidence of indebtedness, hereinafter referred to as "reimbursement  
15 bond". The reimbursement bond shall be issued in a single bond form, without coupons, in  
16 the principal amount equal to the aggregate principal amount of project bonds, shall be  
17 registered in principal and interest in the name of and be payable to the State Bond  
18 Commission, shall bear interest at a rate or rates equal to the interest rate or rates payable  
19 on the project bonds, and shall be payable as to principal and interest at such times, in such  
20 manner, from designated student fees or revenues, or other revenues, and be subject to such  
21 terms and conditions as shall be provided in the authorizing resolution or document executed  
22 by a chief executive officer, where applicable. This authorization shall be subject to  
23 approval by the State Bond Commission and the Office of the Attorney General, and when  
24 so accepted and approved, the authorization shall constitute and be the reimbursement  
25 contract for such authorized project, as required hereunder. The reimbursement bonds  
26 authorized under the provisions of this Section may be issued on a parity with outstanding  
27 reimbursement bonds of the applicable management board, governing body, or state agency,  
28 or issued on a subordinate lien basis to outstanding bonds, or a combination thereof, and may  
29 include and contain such covenants with the State Bond Commission for the security and  
30 payment of the reimbursement bonds and such other customary provisions and conditions

1 for their issuance by the applicable management board, governing body, or state agency as  
2 are authorized and provided for by general law and by this Section. Until project bonds for  
3 an authorized project have been paid, the applicable management board, governing body,  
4 or state agency shall impose fees and charges in an amount sufficient to comply with the  
5 covenants securing outstanding bonds and to make the payments required by the  
6 reimbursement contract.

7 (E) In addition to the other payments herein required, reimbursement contracts shall  
8 provide for the setting aside of sufficient student fees or revenues or other revenues in a  
9 reserve fund, so that within a period of not less than ten years from date of issuance of  
10 project bonds there shall be accumulated in a reserve fund monies equal to a sum not less  
11 than the average annual debt service requirements on such project bonds. Monies in the  
12 reserve fund shall be used for the purpose of remedying or preventing a default in making  
13 the required payments under a reimbursement contract. The reserve fund required  
14 hereunder may consist of a reserve fund heretofore or hereafter established to secure  
15 payments for reimbursement bonds of the applicable management board, governing body,  
16 or state agency, provided that (1) payments from said reserve fund to secure the payments  
17 required to be made under a reimbursement contract shall be on a parity with the payments  
18 to be made securing outstanding bonds and additional parity bonds and (2) no additional  
19 parity reimbursement bonds shall be issued except pursuant to the establishment and  
20 maintenance of an adequate reserve fund as approved by the State Bond Commission.

21 (F) When the balance of reimbursement bond proceeds, for a project, are allocated  
22 to another project, the State Bond Commission is authorized to make the appropriate  
23 amendment to the reimbursement contract with the agency making the reimbursement  
24 payments.

25 Section 6. The bonds authorized to be sold by the State Bond Commission pursuant  
26 to this Act shall be issued and sold in conformity with the provisions of Article VII, Section  
27 6 of the Louisiana Constitution, R.S. 39:1361 through R.S. 39:1367, and R.S. 39:1401  
28 through R.S. 39:1430.1, and any amendments thereto adopted prior to, at the same time as,  
29 or subsequent to, the effective date of this Act. However, the provisions of R.S. 39:1365(9)  
30 shall not apply to any bonds issued hereunder in the form of variable rate and/or tender

1 option bonds and that said bonds need not be issued in serial form and may mature in such  
2 year or years as may be specified by the State Bond Commission. Should any provision of  
3 this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the  
4 provision of this Act shall govern. In connection with the issuance of the bonds authorized  
5 hereby, the State Bond Commission may, without regard to any other laws of the state  
6 relating to the procurement of services, insurance, or facilities, enter into contracts upon such  
7 terms as it deems advantageous to the state for (1) the obtaining of credit enhancement or  
8 liquidity devices designed to improve the marketability of the bonds and (2) if the bonds are  
9 structured as variable rate and/or tender option bonds to provide the services and facilities  
10 required for or deemed appropriate by the State Bond Commission for such type of bonds,  
11 including those of tender agents, placement agents, indexing agents, remarketing agents,  
12 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or  
13 liquidity devices and fees for other services set forth in this Section shall, if authorized by  
14 the State Bond Commission, be paid from the Bond Security and Redemption Fund as a  
15 requirement with respect to the issuance of the bonds authorized hereby. The bonds shall be  
16 general obligations of the state of Louisiana, to the payment of which, as to principal,  
17 premium, if any, and interest, as and when the same become due, the full faith and credit of  
18 the state is hereby irrevocably pledged. These bonds shall be secured by monies in the Bond  
19 Security and Redemption Fund and shall be payable on a parity with bonds and other  
20 obligations heretofore and hereafter issued which are secured by that fund. The maximum  
21 interest rate or rates on such bonds, and their maturities, shall be determined by the State  
22 Bond Commission. The state treasurer shall invest all bond proceeds until disbursed.

23 Section 7. Unless specifically repealed, this Act shall expire, and be considered null  
24 and void and of no further effect on June 30, 2020, except as to any bonds authorized herein  
25 (1) which have been sold, (2) to which lines of credit have been issued, or (3) for which  
26 contracts for construction have been signed.

27 Section 8. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects  
28 included within Section 1 of the Act which originated as House Bill No. 2 of the 2019  
29 Regular Session of the Legislature which did not submit a capital outlay application by  
30 November 1, 2018, in compliance with the provisions of R.S. 39:101(A), and which have

1 not received late approval as required by R.S. 39:112(C) are hereby deemed to have until  
2 June 30, 2019, to submit a capital outlay budget request application pursuant to R.S.  
3 39:101(A) and if the application is submitted by that date, the project is deemed to have  
4 complied with the late approval requirements of R.S. 39:112(C). Additionally, the capital  
5 outlay budget requests together with supporting information and documents for these  
6 projects shall constitute the feasibility study required by Article VI, Section 11(C) of the  
7 Constitution of Louisiana. Beginning in Fiscal Year 2020-2021, all projects shall comply  
8 with the provisions of R.S. 39:101(A) and 112(C).

9 Section 9. The office of facility planning and control shall revise the capital outlay  
10 application for entities applying for capital outlay funding for Fiscal Year 2020-2021 and  
11 thereafter, to include information regarding the status of the project and the amount of any  
12 outstanding obligations for the project. If construction of a project is complete, the entity  
13 which received capital outlay funding shall submit a certificate of completion to the office  
14 of facility planning and control within one year of completion of construction of the project.  
15 Any entity that receives cash lines of credit for any portion of design, planning, or  
16 construction of a capital outlay project that fails to timely submit a certificate of completion  
17 shall be ineligible for future capital outlay funding unless the entity receives approval of  
18 both the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs  
19 Committee.

20 Section 10. Notwithstanding the provisions of R.S. 39:122, for Fiscal Year 2019-  
21 2020, the commissioner of administration shall make recommendations to the House  
22 Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs  
23 concerning the state and nonstate entity projects to be granted lines of credit. The  
24 commissioner of administration shall submit to the House Committee on Ways and Means  
25 and the Senate Committee on Revenue and Fiscal Affairs a list of state and nonstate entity  
26 projects that the division of administration recommends for lines of credit no less than thirty  
27 days prior to the meeting date of the State Bond Commission in which the lines of credit are  
28 to be considered. The House Committee on Ways and Means and the Senate Committee on  
29 Revenue and Fiscal Affairs shall receive the list of recommendations from the division of  
30 administration and shall have discretion to either approve the list or make changes to the list.

1 The committees shall make final recommendations and shall separately approve a list of  
2 projects which shall be submitted to the State Bond Commission for consideration of lines  
3 of credit. Only projects which received approval from both the House Committee on Ways  
4 and Means and the Senate Committee on Revenue and Fiscal Affairs shall be submitted to  
5 the State Bond Commission for consideration of lines of credit.

6 Section 11. This Act shall become effective upon signature by the governor or, if not  
7 signed by the governor, upon expiration of the time for bills to become law without signature  
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
10 effective on the day following such approval.

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#### 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)]

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HB 3 Reengrossed

2019 Regular Session

Abramson

**Abstract:** Provides for the implementation of a five-year capital improvement program.

Provides for the implementation of a five-year capital improvement program; provides for the repeal of certain prior bond authorizations; provides for new bond authorizations; provides for authorization and sale of such bonds by the State Bond Commission; and provides for related matters.

Proposed law deems projects included in Section 1 of HB No. 2 of the 2019 R.S. to have until June 30, 2019, to submit capital outlay budget request applications and if the project application is submitted by that date, the project is deemed to have complied with late approval requirements in present law. Further provides that capital outlay budget requests and supporting documents for projects which did not meet the Nov. 1, 2018, application deadline that comply with the provisions of proposed law shall be deemed to be in compliance with present constitution requirements regarding feasibility studies.

Proposed law requires the office of facility planning and control (FP&C) to revise the capital outlay application to include information regarding the status of the project and the amount of any outstanding obligations for the project. Further requires an entity to submit a certificate of completion to FP&C within one year of completion of construction of the project. Any entity that fails to timely submit a certificate of completion shall be ineligible for future capital outlay funding unless the entity receives approval of both the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, hereinafter "legislative committees".

Proposed law requires, for Fiscal Year 2019-2020, the commissioner of administration to make recommendations to the legislative committees concerning the state and nonstate entity projects to be granted lines of credit and to submit the list of recommendations to the legislative committees no less than 30 days prior to the meeting date of the State Bond Commission (SBC) in which the lines of credit are to be considered. Proposed law authorizes the legislative committees to make changes to the list but to separately approve the list of projects which shall be submitted to the SBC for consideration of lines of credit.

Only projects which received approval from both legislative committees shall be submitted to the SBC for consideration of lines of credit.

Effective upon signature of governor or lapse of time for gubernatorial action.

Summary of Amendments Adopted by House

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

1. Deem projects included in Section (1)(A) of HB No. 2 of the 2019 R.S. to have until June 30, 2019, to submit capital outlay budget request applications and if the project application is submitted by that date, the project is deemed to have complied with late approval requirements in present law.
2. Require FP&C to revise the capital outlay application to include information regarding the status of a project and the amount of any outstanding obligations for the project.
3. Require FP&C to include in reports submitted to the JLCCO, information regarding the amount of local match required to be provided by a nonstate entity and whether the local match requirement has been waived by FP&C.
4. Specify the process for Fiscal Year 2019-2020 for submission of and approval of line of credit recommendations to the SBC.

The House Floor Amendments to the engrossed bill:

1. Specify that projects which did not submit a capital outlay application by Nov. 1, 2018, and which did not receive late approval as required by present law have until June 30, 2019, to comply with present law to be eligible for capital outlay funding.
2. Add provision that capital outlay budget requests and supporting documents for projects which did not meet the Nov. 1, 2018, application deadline that comply with the provisions of proposed law shall be deemed to be in compliance with present constitution requirements regarding feasibility studies.