

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 598

2017 Regular Session

Abramson

TRANSPORTATION: Provides for changes to the highway priority program

Synopsis of Senate Amendments

1. Makes technical changes.
2. Requires the Highway Priority Program utilize taxes levied on gasoline in the most cost-effective manner to ensure that the state is getting a positive return on the investment of state and federal funds in transportation projects across regions.
3. Clarifies a factor the Department of Transportation and Development (department) must consider for inclusion of a project in the Highway Priority Program. Specifically, requires the department consider whether the highway or bridge project will support the needs of the local and regional authorities with responsibility for transportation planning to ensure equitable distribution.
4. Clarifies that the department is required to apply the prioritization factors to prioritize all projects in the Highway Priority Program which are at the state of project delivery.
5. Clarifies that the department must devise a detailed schedule of project delivery for all projects on this list, including the stage of project delivery, scheduled letting date, and estimated completion date in addition to costs and funding requirements in proposed law.
6. Clarifies that the department must publish a list with notations regarding whether the scheduled letting date meets the requirements of proposed law.
7. Removes the requirement that at least thirty-five percent of the avails of any additional motor fuel taxes levied be divided among the department districts based on state road milage and average daily traffic for use as determined by the administrator of each district after input from local government officials and metropolitan planning organizations.
8. Removes the prohibition that provides that any Highway Priority Program documents produced, including any source data and reports associated with the prioritization of projects in the program, will not be discoverable or admissible as evidence in any civil trial.
9. Requires that the avails of the motor fuel tax be spent on certain proposed law provisions and instead limits the avails to administrative and support services, transportation funding, operations and maintenance of infrastructure, and program and project delivery.
10. Requires the legislative auditor annually certify that the audit of the avails of the motor fuel tax are in substantial compliance with the Constitution of Louisiana and proposed law.
11. Clarifies that if the legislative auditor finds a lack of substantial compliance in the use of the avails of the motor fuel tax pursuant to the Constitution of Louisiana and proposed law in any three consecutive audits, the Legislative Audit Advisory Council must recommend appropriate action to the legislature.
12. Requires the department to provide the Joint Committee on Transportation, Highways, and Public Works with a proposed construction program and list of

projects together with the summary of project requests from the public hearings required by present law together with a report based on testimony received at the district public hearings beginning February 1, 2018 and not later than February first of each year thereafter.

13. Authorizes the joint committee to hold a public hearing after receiving the proposed construction program and list of projects, to delete any project determined to not be in proper order of priority, and to add or substitute any projects which have been removed and requires the joint committee communicate the approved proposed construction program to the department.
14. Clarifies that the department must create the final approved construction program for the coming fiscal year for submission to the legislature.
15. Authorizes the legislature to delete any projects determined to not be in proper order of priority beginning March 1, 2018 and not later than March first of each year thereafter. Prohibits the legislature from adding or substituting any project in the final approved construction program.
16. Requires the Joint Highway Priority Construction Committee to include legislators representing the parishes within the respective highway district solely for the purposes of attending the public hearings in each district as required by present law.
17. Removes projects involving the use of matching funds to meet federal requirements in order to receive federal aid funds from the limitation of construction of only priority listed projects.
18. Requires the department provide notification by email, together with a brief description of the need for and purpose of any project that changes the flow of traffic by closing an existing interchange.
19. Removes joint transportation committee approval of projects changing the flow of traffic or reducing the number of travel lanes to each legislator in whose district the project is proposed prior to undertaking any of these projects.

Digest of Bill as Finally Passed by Senate

Present law establishes a prioritization process for construction of highway and bridge projects utilized to develop a Highway Priority Program that accomplishes many goals including bringing the state highway system into a good state of repair and optimizes the usage and efficiency of existing transportation facilities.

Proposed law retains present law but adds to the goals of the prioritization process the development of a program to ensure that the taxes levied on motor fuels are used by the Dept. of Transportation and Development in the most cost-effective manner and that the state is maximizing state and federal funding on costs related to the actual construction and maintenance of highway and bridge projects and minimizing the use of these funds on administrative costs for the Dept. of Transportation and Development.

Proposed law specifies that in cases where Priority A and B mega-projects would be prioritized equally in accordance with proposed law and present law, consideration must be given to mega-projects for which funding has been made available by sources other than the state or federal government.

Present law requires, beginning in FY 2017-2018, the Dept. of Transportation and Development to provide the legislature and public with a program that lists projects to be constructed in the ensuing fiscal year in an order of priority that is determined after projects

are analyzed utilizing a process based on an objective analysis that considers the following factors relative to the cost of the project and anticipated revenues to be appropriated by the legislature:

- (1) The condition of the roads, streets, and structures making up the state highway system and the urgency of the improvements considering their order of needs.
- (2) The type and volume of traffic on a roadway, highway, or bridge.
- (3) The crash records for a roadway, highway, or bridge.
- (4) The technical difficulties in the preparation of plans and the procurement of rights-of-way for a roadway, highway, or bridge.
- (5) Whether an unforeseeable emergency has created an immediate need for improvement or reconstruction.
- (6) Whether capacity improvements are warranted due to population or traffic volume increases in a geographic area.
- (7) Whether or not the highway or bridge is or will be on an evacuation route utilized to evacuate large populations due to catastrophic events.
- (8) Whether the improvement to or addition of a highway or bridge will benefit the economic development potential of the state.

Proposed law retains present law but changes the FY from 2017-2018 to FY 2018-2019 and adds a factor for whether the highway or bridge project will support the needs of the local and regional authorities with responsibility for transportation planning to ensure that there is an equitable distribution among and between the different regions of the state over a three-year period.

Proposed law requires, in addition to the requirements of present law, the Dept. of Transportation and Development establish a multi-year time line on the projects to be funded through the program each year including an indication of the source of monies from which project costs will be funded.

Proposed law requires Dept. of Transportation and Development to submit performance progress reports including the performance objectives, indicators, and standards used by the department to determine the efficiency and effectiveness of the priority of projects in the program. Further requires the report to be submitted and maintained through the electronic performance database maintained and used by the division of administration to track state agency performance standards and on the Dept. of Transportation and Development's webpage.

Proposed law requires, beginning with the program for FY 2018-2019 and for each program thereafter, the Dept. of Transportation and Development apply the prioritization factors provided for in present law and begin to prioritize all projects in the program which are at the stage of project delivery where sources of funding are being identified.

Proposed law further requires, beginning with the program for FY 2018-2019, the department to prioritize all projects included in the program into two separate lists. Requires the first list include a three-year plan for all projects in the program where funding is programmed based on the anticipated and projected revenues available for design or scheduled to be bid for construction in that fiscal year. Requires the Dept. of Transportation and Development publish the list with notations regarding whether the scheduled letting date for each project is on-schedule, ahead of schedule, or delayed.

Proposed law requires the department include a detailed written explanation of any delay notated on the published list required by proposed law.

Proposed law requires that as projects are completed from the first list, they are deleted and replaced with projects from the second list beginning with the highest level of priority. Further requires the Dept. of Transportation and Development to devise a detailed schedule of project delivery for all projects on this list which must include at a minimum, the stage of project delivery, the scheduled letting date, and estimated completion date for each phase of project delivery, associated costs, and funding sources for each phase.

Proposed law requires the second list to include a three-year plan for all projects in the program that can be funded if additional revenues become available. Specifies that each year, as projects move from this list to the first list, new projects must be added to the second list from prioritized projects in the program starting with the highest level of priority.

Proposed law requires the district administrator of each of the nine Dept. of Transportation and Development districts to determine the prioritization of the pavement preservation projects in their respective district.

Proposed law requires, beginning July 1, 2019, the legislative auditor annually audit the avails of the taxes levied on gasoline, motor fuels, and special fuels, hereinafter "motor fuel taxes", to ensure compliance with the laws and regulations and adequacy of internal controls to ensure all of the following:

- (1) That the avails of the motor fuels tax are used in accordance with their restricted purposes as set forth in the state constitution.
- (2) That the avails of the motor fuels tax are spent in appropriate categories as outlined in proposed law.
- (3) That the avails of the motor fuels tax are spent on projects in compliance with the priorities set forth in the applicable programs for prioritizing capital projects.
- (4) That the avails of the motor fuels tax are spent in an efficient and effective manner showing improvement in program operations through performance measures such as pavement conditions, bridge conditions, safety improvements, implementation of the La. Statewide Transportation Plan, and other outcome measures as determined by the auditor.

Proposed law requires the Dept. of Transportation and Development annually submit a report to the legislature and the legislative auditor which contains detailed information regarding the expenditure breakdown of the avails of the motor fuel taxes utilized by the department in accordance with the restricted purposes as set forth in the state constitution and the methodology and outcomes of the Dept. of Transportation and Development's prioritization of projects, and all source documentation necessary to review any metrics determined by the legislative auditor. Proposed law provides for a detailed breakdown of additional information the report is required to include.

Proposed law requires the auditor to annually certify that the audit of the avails of the motor fuels tax are in substantial compliance with proposed law and LA Const. Article VII, §27. Proposed law specifies that if the legislative auditor finds a lack of substantial compliance with any three consecutive audits, then the Legislative Audit Advisory Council is required to make recommendations of appropriate action to the legislature.

Present law provides for annual public hearings on a proposed construction program presented by the Dept. of Transportation and Development to and conducted by the Joint Highway Priority Construction Committee composed of all members of the House and Senate committees on transportation, highways and public works and each legislator representing parishes within the respective highway district and for submission of a report based on testimony received to be sent to the department.

Proposed law changes present law beginning Feb. 1, 2018, and Feb. first each year thereafter to require the Dept. of Transportation and Development to present the proposed construction program and list of projects together with the summary of project requests from public

hearings conducted under present law. Proposed law requires the Joint Committee on Transportation, Highways and Public Works to hold a public hearing, and authorizes the joint committee to delete any project its determines does not have priority in accordance with the factors in present law (R.S. 48:229.1) and to add or substitute any projects to the proposed construction program for projects which have been removed. Proposed law requires the joint committee to communicate the approved proposed construction program to the Dept. of Transportation and Development.

Present law requires the department to create the final construction program for the coming fiscal year for submission to the legislature.

Proposed law requires the final construction program for the coming fiscal year for submission to the legislature be approved and authorizes the legislature to delete any projects determined to not be in proper order of priority beginning March 1, 2018 and not later than March first of each year thereafter.

Proposed law changes present law to provide that the Joint Highway Priority Construction Committee includes legislators representing the parishes within the respective highway district solely for purposes of attending public hearings in each highway district.

Present law prohibits the Dept. of Transportation and Development from undertaking any construction project other than those included in the priority listing for that fiscal year regardless of the source of funds for the project except project undertaken and financed out of the secretary's emergency fund and projects involving use of matching funds to meet federal requirements in order to receive federal aid funds.

Proposed law removes the exception applicable to projects involving use of matching funds to meet federal requirements in order to receive federal aid funds. Adds provisions that require the Dept. of Transportation and Development to provide notification by email, together with a brief description of the need for and purpose of any project that changes the flow of traffic by closing an existing interchange to each legislator in whose district the project is proposed prior to undertaking any of these projects.

Effective Aug. 1, 2017.

(Amends R.S. 48:229.1(B) and (C), 231(A)(5) and (6) and (B), and 232; Adds R.S. 48:229.1(A)(9), (10), and (11) and (H), and 229.2)