

2018 Second Extraordinary Session

SENATE BILL NO. 14

BY SENATOR MORRELL

BONDS. Provides for the Omnibus Bond Act. (Item #9)(7/1/18)

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AN ACT

To enact the Omnibus Bond Authorization Act of 2018, relative to the implementation of a five-year capital improvement program; to provide for the repeal of certain prior bond authorizations; to provide for new bond authorizations; to provide for authorization and sale of such bonds by the State Bond Commission; to provide relative to the submission of capital outlay applications; to provide with respect to the resubmission of certain capital outlay budget requests; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The legislature hereby recognizes that the Constitution of Louisiana provides in Article VII, Section 11, that the governor shall present to the legislature a five-year Capital Outlay Program and request implementation of the first year of such program, and that the capital outlay projects approved by the legislature are to be made part of the comprehensive state capital budget which shall, in turn, be adopted by the legislature. Further, all projects in such budget adopted by the legislature requiring bond funds must be authorized as provided in Article VII, Section 6 of the Constitution of Louisiana. The 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, the  
9 legislature deems it necessary and in the best financial interest of the state to repeal all Acts,  
10 except any Act authorizing the issuance of refunding bonds and Act 41 of the 2006 First  
11 Extraordinary Session, providing for the issuance of general obligation bonds in the state  
12 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 2018 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 2018 Regular Session as finally enacted into law (2018  
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 Act 5 of the 2017 Second

1 Extraordinary Session of the Louisiana Legislature as finally enacted into law (2017  
2 Omnibus Bond Authorization Act) and any Acts heretofore repealed with such Act. This  
3 repeal shall not be applicable to any Act providing for the issuance of refunding bonds nor  
4 to Act 41 of the 2006 First Extraordinary Session, and such Acts shall remain in full force  
5 and effect and shall not be affected by the provisions of this Act. In addition, the repeal shall  
6 not in any manner affect the validity of any bonds heretofore issued pursuant to any of the  
7 bond authorizations repealed hereby.

8 Section 4. To provide funds for certain capital improvement projects the State Bond  
9 Commission is hereby authorized pursuant to Article VII, Section 6 of the Constitution of  
10 Louisiana to issue general obligation bonds or other general obligations of the state for  
11 capital improvements for the projects, and subject to any terms and conditions set forth on  
12 the issuance of bonds or the expenditure of monies for each project as is provided for in the  
13 2018 Capital Outlay Act.

14 Section 5.(A) To provide funds for certain capital improvement projects authorized  
15 prior to this Act and by this Act, which projects are designed to provide for reimbursement  
16 of debt service on general obligation bonds, the State Bond Commission is hereby authorized  
17 pursuant to Article VII, Section 6 of the Constitution of Louisiana, to issue general  
18 obligation bonds of the state, hereinafter referred to as "project bonds", for capital  
19 improvements for the projects and subject to any terms and conditions set forth on the  
20 issuance of bonds or the expenditure of monies for each such project as provided in the 2018  
21 Capital Outlay Act the terms of which require such reimbursement of debt service.

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

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

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

1 thereunder for the authorized projects are sufficient to reimburse the costs of the principal,  
2 interest, and premium, if any, on the project bonds. A reimbursement contract hereunder  
3 shall be authorized by resolution of the applicable management board, governing body, or  
4 state agency, or board or by act of the chief executive officer if no governing board exists.  
5 This authorization shall provide for the dates, amounts, and other details for the payments  
6 required to be made to the state treasury and for the reserve account. The authorization may  
7 contain such covenants with the State Bond Commission regarding the fixing of rates for  
8 fees and charges or revenues and such other covenants and agreements with the State Bond  
9 Commission as will assure the required payments to the state treasury. The contract shall be  
10 subject to approval by the Office of the Attorney General and the State Bond Commission  
11 and, when so accepted and approved, shall conclusively constitute and be the reimbursement  
12 contract for an authorized project, as required hereunder.

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

1 or issued on a subordinate lien basis to outstanding bonds, or a combination thereof, and may  
2 include and contain such covenants with the State Bond Commission for the security and  
3 payment of the reimbursement bonds and such other customary provisions and conditions  
4 for their issuance by the applicable management board, governing body, or state agency as  
5 are authorized and provided for by general law and by this Section. Until project bonds for  
6 an authorized project have been paid, the applicable management board, governing body,  
7 or state agency shall impose fees and charges in an amount sufficient to comply with the  
8 covenants securing outstanding bonds and to make the payments required by the  
9 reimbursement contract.

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

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

28 Section 6. The bonds authorized to be sold by the State Bond Commission pursuant  
29 to this Act shall be issued and sold in conformity with the provisions of Article VII, Section

1 6 of the Louisiana Constitution, R.S. 39:1361 through R.S. 39:1367, and R.S. 39:1401  
2 through R.S. 39:1430.1, and any amendments thereto adopted prior to, at the same time as,  
3 or subsequent to, the effective date of this Act. However, the provisions of R.S. 39:1365(9)  
4 shall not apply to any bonds issued hereunder in the form of variable rate and/or tender  
5 option bonds and that said bonds need not be issued in serial form and may mature in such  
6 year or years as may be specified by the State Bond Commission. Should any provision of  
7 this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the  
8 provision of this Act shall govern. In connection with the issuance of the bonds authorized  
9 hereby, the State Bond Commission may, without regard to any other laws of the state  
10 relating to the procurement of services, insurance, or facilities, enter into contracts upon such  
11 terms as it deems advantageous to the state for (1) the obtaining of credit enhancement or  
12 liquidity devices designed to improve the marketability of the bonds and (2) if the bonds are  
13 structured as variable rate and/or tender option bonds to provide the services and facilities  
14 required for or deemed appropriate by the State Bond Commission for such type of bonds,  
15 including those of tender agents, placement agents, indexing agents, remarketing agents,  
16 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or  
17 liquidity devices and fees for other services set forth in this Section shall, if authorized by  
18 the State Bond Commission, be paid from the Bond Security and Redemption Fund as a  
19 requirement with respect to the issuance of the bonds authorized hereby. The bonds shall be  
20 general obligations of the state of Louisiana, to the payment of which, as to principal,  
21 premium, if any, and interest, as and when the same become due, the full faith and credit of  
22 the state is hereby irrevocably pledged. These bonds shall be secured by monies in the Bond  
23 Security and Redemption Fund and shall be payable on a parity with bonds and other  
24 obligations heretofore and hereafter issued which are secured by that fund. The maximum  
25 interest rate or rates on such bonds, and their maturities, shall be determined by the State  
26 Bond Commission. The state treasurer shall invest all bond proceeds until disbursed.

27 Section 7. Unless specifically repealed, this Act shall expire, and be considered null  
28 and void and of no further effect on June 30, 2019, except as to any bonds authorized herein  
29 (1) which have been sold, (2) to which lines of credit have been issued, or (3) for which

1 contracts for construction have been signed.

2 Section 8. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects  
3 included within Section (1)(A) of House Bill No. 2 of the 2018 Regular Session of the  
4 Legislature are hereby deemed to have timely submitted capital outlay budget request  
5 applications for Fiscal Year 2018-2019 and to have complied with the late approval  
6 requirements of R.S. 39:112(C), and as such shall be eligible for cash and noncash lines of  
7 credit for Fiscal Year 2018-2019. Beginning in Fiscal Year 2019-2020 all projects shall  
8 comply with the provisions of R.S. 39:101(A) and 112(C).

9 Section 9. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects  
10 included within Section (1)(B) of House Bill No. 2 of the 2018 Regular Session of the  
11 Legislature, which have submitted a capital outlay budget request application pursuant to  
12 R.S. 39:101(A) prior to the date the governor signs this Act or if not signed by the governor,  
13 upon the expiration of time for bills to become law without the signature of the governor,  
14 the project is deemed to have complied with the late approval requirements of R.S.  
15 39:112(C). Beginning in Fiscal Year 2019-2020, all projects shall comply with the  
16 provisions of R.S. 39:101(A) and 112(C).

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

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Bobbie Hunter.

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DIGEST

SB 14 Original

2018 Second Extraordinary Session

Morrell

Present law 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 retains present law.

Proposed law deems projects included in Section (1)(A) of HB No. 2 of the 2018 R.S. to have timely submitted capital outlay budget request applications for FY 2018-2019 and to have complied with the late approval requirements of present law. Further authorizes these projects to be eligible for lines of credit for FY 2018-2019.

Proposed law deems projects included in Section (1)(B) of HB No. 2 of the 2018 R.S. to have until the governor signs the bill or the lapse of time for bills to become law without the governor's signature, 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.

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