

2024 Regular Session

HOUSE BILL NO. 940

BY REPRESENTATIVE TURNER

BONDS: Authorizes the issuance of bonds to finance deferred maintenance projects included in the College and University Deferred Maintenance and Capital Improvement Program

1 AN ACT  
2 To enact Part VII-A of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, to  
3 be comprised of R.S. 17:3369.1 through 3369.3, relative to financing deferred  
4 maintenance and facility capital improvements at public postsecondary educational  
5 institutions; to authorize the issuance of bonds for the financing of certain projects;  
6 to provide for requirements and limitations with respect to the issuance of bonds; to  
7 provide for definitions; to provide for the management and administration of  
8 projects; to exempt certain projects from the requirement of being included in the  
9 annual capital outlay budget; to provide for the duties and responsibilities of certain  
10 management boards; to provide for the duties and responsibilities of the  
11 commissioner of administration; to limit the amount of bonds that may be issued; to  
12 provide for the allocation of certain monies; to require certain reports; to provide for  
13 an effective date; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Part VII-A of Chapter 26 of Title 17 of the Louisiana Revised Statutes of  
16 1950, comprised of R.S. 17:3369.1 through 3369.3 is hereby enacted to read as follows:

1           PART VII-A. COLLEGE AND UNIVERSITY DEFERRED MAINTENANCE

2                           AND CAPITAL IMPROVEMENT PROGRAM

3           §3369.1. College and university deferred maintenance and capital improvement  
4                           program; intent

5                       It is the intent of the legislature to establish a program to address the deferred  
6           maintenance and capital improvement needs that exist for facilities located on public  
7           postsecondary educational institution campuses in Louisiana. This Part specifically  
8           authorizes the issuance of bonds in order to address the deferred maintenance and  
9           capital improvement projects that exist at each public postsecondary educational  
10          facility in the state. The authorities granted to the Board of Supervisors of Louisiana  
11          State University and Agricultural and Mechanical College, the Board of Supervisors  
12          for the University of Louisiana System, the Board of Supervisors of Southern  
13          University and Agricultural and Mechanical College, and the Board of Supervisors  
14          of Community and Technical Colleges pursuant to this Part are intended to facilitate  
15          the finance of deferred maintenance and capital improvements projects and to ensure  
16          their completion in an expeditious manner.

17          §3369.2. Definitions

18                       As used in this Part, the following words shall have the following meanings  
19          unless the context clearly indicates otherwise:

20                       (1) "Annual appropriation dependency clause" means a clause which shall  
21          be included in any financing arrangement which provides that if, after a diligent and  
22          good faith effort by the state to appropriate funds for the payment of sums due under  
23          a financing agreement, the funds are not appropriated, the agreement shall be  
24          terminated, and the state shall not be liable for the payment of further sums due  
25          thereunder.

26                       (2) "Board" means the Board of Supervisors of Southern University and  
27          Agricultural and Mechanical College, the Board of Supervisors for the University of  
28          Louisiana System, the Board of Supervisors of Louisiana State University and

1        Agricultural and Mechanical College, or the Board of Supervisors of Community and  
2        Technical Colleges.

3                (3) "Corporation" means the nonprofit corporation which may be utilized to  
4        accomplish the purposes of this Part.

5                (4) "Project" means improvements addressing deferred maintenance of  
6        public facilities including the complete renovation of buildings with significant  
7        deferred maintenance needs; utility infrastructure; drainage, street, sidewalk, and site  
8        infrastructure; the demolition of public facilities; and any other improvements to  
9        address deferred maintenance needs, to be financed as authorized and provided in  
10       this Part and R.S. 17:3361 et seq. The term "project" shall not include new  
11       buildings or building additions, other than minor additions required for code  
12       compliance or improved access to a public facility.

13               (5) "Public facility" or "public facilities" means buildings, equipment, and  
14       other permanent property or immovable property of the system under the supervision  
15       and control of the board.

16               (6) "System" means the Louisiana State University System, the University  
17       of Louisiana System, the Southern University System, or the Louisiana Community  
18       and Technical College System.

19       §3369.3. Authority of the board to execute agreements related to the finance of  
20       deferred maintenance and capital improvements

21               A.(1) Projects may, at the direction of the board, be funded through the  
22       issuance of bonds, notes, or other evidences of indebtedness or through financing  
23       programs provided by the Louisiana Local Government Environmental Facilities and  
24       Community Development Authority, pursuant to R.S. 33:4548.1 et seq., or a public  
25       trust duly organized pursuant to R.S. 9:2341 et seq., having for its beneficiary the  
26       state, with the approval of the State Bond Commission.

27               (2) Bonds, notes, or other evidences of indebtedness may be issued as serial  
28       bonds or as term bonds and shall bear such date or dates, mature at such time or  
29       times, not exceeding thirty years from their respective dates, bear interest at such rate

1 or rates, including variable, adjustable, or zero interest rates, be payable at such time  
2 or times, be in such denominations, be sold at such price or prices, at public or  
3 private negotiated sale, after advertisement as is provided for in R.S. 39:1426 et seq.  
4 be in such form, carry such registration and exchangeability privileges, be payable  
5 at such place or places, and be subject to such terms of redemption, as may be  
6 provided in the indenture, trust agreement, or resolution relating to such bonds.  
7 Bonds, notes, or other evidences of indebtedness may be sold in such manner and  
8 from time to time as may be determined by the issuer and the board to be most  
9 beneficial, subject to approval of the State Bond Commission.

10 (3) Projects financed or constructed on behalf of a system pursuant to the  
11 program established in this Part shall not be required to be included in the annual  
12 comprehensive capital budget nor obtain legislative approval as provided in R.S.  
13 39:112(G).

14 (4)(a)(i) Projects financed or constructed on behalf of a system pursuant to  
15 the program established in this Part shall be managed and administered by a  
16 corporation established for such purposes, regardless of the source of revenues used  
17 to fund the projects. The board of a system may enter into agreements with one or  
18 more corporations to administer and manage projects and may use alternative  
19 competitive procurement and delivery methods with public advertisement for the  
20 award of any contracts for the construction of any project in excess of one million  
21 dollars of total installed costs if the board determines it is cost efficient and in the  
22 best interest of the board to complete projects timely. However, the commissioner  
23 of administration, hereinafter referred to in this Paragraph as "commissioner", shall  
24 select the corporation or corporations from a list of qualified corporations submitted  
25 by the board. The commissioner and the director of the office of facility planning  
26 and control, hereinafter referred to in this Paragraph as "director", shall approve all  
27 cooperative endeavor agreements entered into between the board, a corporation, and  
28 the state prior to the commencement of any planning, design, or construction  
29 activities. Each cooperative endeavor agreement shall set forth the requirements and

1 responsibilities of each party and shall also be in accordance with the guidelines and  
2 standards of cooperative endeavor agreements administered by the office of facility  
3 planning and control. Each cooperative endeavor agreement shall include an annual  
4 appropriation dependency clause.

5 (ii) Monies to pay for the costs of projects shall be disbursed by the director  
6 within forty-five days of submission of project expenses to the director by the board.

7 (b)(i) The provisions of Subparagraph (a) of this Paragraph shall not apply  
8 to any project with a total installed cost of less than one million dollars undertaken  
9 by a board pursuant to the provisions of this Part if the project is approved by the  
10 board, the commissioner, and the director.

11 (ii) The director shall monitor projects undertaken by a board pursuant to the  
12 provisions of this Subparagraph.

13 (iii) Each board shall submit a written report every six months to the  
14 commissioner and the Joint Legislative Committee on Capital Outlay which contains  
15 information on the number of projects undertaken by the board, the percent of  
16 completion of each project, and the total amount of funds expended on each project.

17 (c) Any corporation entering into an agreement pursuant to the provisions  
18 of this Part shall submit a written report every six months to the commissioner, the  
19 director, and the Joint Legislative Committee on Capital Outlay which contains  
20 information on the percent of completion of each project, the amount of monies  
21 expended on each project, the amount of monies needed to complete each project,  
22 and the expected timelines for completion of the construction of each project.

23 (5) The board shall exercise its authority granted pursuant to R.S. 17:3361  
24 et seq. as may be necessary to provide for the completion of the projects enumerated  
25 in this Section. The board may grant leases of property under its supervision to a  
26 nonprofit corporation or to an entity authorized to issue bonds as set forth in  
27 Paragraph (1) of this Subsection for the purpose of financing projects, and the  
28 maximum amount of bonds that may be issued shall not exceed one billion six  
29 hundred eighty-one million dollars, together with other requirements including but

1 not limited to costs of issuance, if any, credit enhancement, and related costs.

2 Notwithstanding any provision of R.S. 17:3361, et seq., to the contrary, the term of

3 any lease agreement made for purposes of this Part shall not exceed thirty years.

4 (6) No monies shall be appropriated pursuant to the provisions of this Part

5 for any project until July 1, 2026.

6 (7) No bonds, notes, or other evidences of indebtedness may be issued for

7 any project or by any system for a project to be financed pursuant to this Part after

8 July 1, 2036.

9 B. The maximum amount of bonds that may be issued to finance projects

10 pursuant to this Part shall not exceed one billion six hundred eighty-one million

11 dollars, together with other requirements including but not limited to costs of

12 issuance, if any, credit enhancement and related costs to be allocated to the board of

13 each system as follows:

14 (1) The Southern University System, one hundred fifty-three million dollars.

15 (2) The University of Louisiana System, five hundred twenty-three million

16 dollars.

17 (3) The Louisiana State University System, seven hundred fifty-two million

18 dollars.

19 (4) The Louisiana Community and Technical College System, two hundred

20 fifty-three million dollars.

21 Section 2. This Act shall become effective upon signature by the governor or, if not

22 signed by the governor, upon expiration of the time for bills to become law without signature

23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

24 vetoed by the governor and subsequently approved by the legislature, this Act shall become

25 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 940 Reengrossed

2024 Regular Session

Turner

**Abstract:** Authorizes the issuance of up to \$1.681 billion in bonds to fund deferred maintenance projects included in the College and University Deferred Maintenance Capital Improvement Program.

Proposed law establishes the College and University Deferred Maintenance Capital Improvement Program to address the deferred maintenance and capital improvement needs at public postsecondary educational institutions in La. Proposed law grants the Bd. of Supervisors of La. State University and Agricultural and Mechanical College, the Bd. of Supervisors for the University of La. System, the Bd. of Supervisors of Southern University and Agricultural and Mechanical College, and the Bd. of Supervisors of Community and Technical Colleges (hereinafter collectively "boards") the authority to facilitate the financing of deferred maintenance and capital improvements projects.

Proposed law defines a "project" as improvements addressing deferred maintenance of public facilities including the complete renovation of buildings with significant deferred maintenance needs; utility infrastructure; drainage, street, sidewalk, and site infrastructure; the demolition of public facilities, and any other improvements to address deferred maintenance needs, to be financed as authorized and provided in proposed law. The term "project" shall not include new buildings or building additions, other than minor additions required for code compliance or improved access to a public facility.

Proposed law defines a "public facility" or "public facilities" as buildings, equipment, and other permanent property or immovable property of the system under the supervision and control of the board.

Proposed law defines "system" as the La. State University System, the University of La. System, the Southern University System, or the La. Community and Technical Colleges System.

Proposed law authorizes the board of a system, at its discretion, to fund projects through financing programs provided by the La. Local Government Environmental Facilities and Community Development Authority pursuant to present law (R.S. 33:4548.1 et seq.) or a public trust duly organized pursuant to present law that has the state as its beneficiary, with the approval of the State Bond Commission.

Proposed law provides for the requirements and limitations for issuance of the bonds including the maturity dates, term of the bonds, interest rates, denominations, and price.

Proposed law exempts projects financed or constructed on behalf of a system from the present law requirement of being included in the annual comprehensive capital budget or to obtain legislative approval.

Proposed law requires projects financed or constructed on behalf of a system to be managed and administered by a corporation, regardless of the source of revenues used to fund the projects. Further authorizes the board of a system to enter into agreements with one or more corporations to administer and manage projects and to use alternative competitive procurement and delivery methods with public advertisement for the award of any contracts in excess of \$1 million of total installed costs under certain circumstances.

Proposed law requires the commissioner of administration, hereinafter "commissioner", to select the corporation or corporations from a list of qualified corporations submitted by the board.

Proposed law requires the commissioner and the director of the office of facility planning and control, hereinafter "FP&C" and "director", to approve all cooperative endeavor agreements, hereinafter "CEA", entered into between the board, a corporation, and the state prior to the commencement of any planning, design, or construction activities. Further requires each CEA to set forth the requirements and responsibilities of each party and to be in accordance with the guidelines and standards of CEAs administered by FP&C.

Proposed law requires each CEA to include an annual appropriation dependency clause.

Proposed law requires monies to pay for the costs of projects to be disbursed by the director within 45 days of submission of project expenses to the director by the board.

Proposed law authorizes a project with a total of installed costs of less than \$1 million to be undertaken by a board if the project is approved by the board, the commissioner, and the director. However, the director is required to monitor projects undertaken by a board.

Proposed law requires the board and the corporation to submit written reports every six months which contains information on the status of each project administered by them.

Proposed law authorizes the board to grant leases of property under its supervision to a nonprofit corporation or to an entity authorized to issue bonds for the purpose of financing projects. Further limits the term of any lease agreement to not more than 30 years.

Proposed law prohibits monies from being appropriated for any project until July 1, 2026, and prohibits bonds, notes, or other evidences of indebtedness from being issued for any project or by any system for a project to be financed pursuant to proposed law after July 1, 2036.

Proposed law provides that the maximum amount of bonds that may be issued to finance projects pursuant to proposed law is \$1.681 billion, together with other requirements including but not limited to costs of issuance, if any, credit enhancement and related costs. The monies shall be allocated as follows:

- (1) The Southern University System, \$153 million.
- (2) The University of La. System, \$523 million.
- (3) The La. State University System, \$752 million.
- (4) The La. Community and Technical College System, \$253 million.

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

(Adds R.S. 17:3369.1-3369.3)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Increase the amount of project costs that triggers a requirement for a public hearing prior to beginning construction or management of the project from \$250,000 to \$1 million.



2. Increase the amount of project costs that triggers a requirement for the corporation to issue a request for qualifications or request for proposals to select contractors for any project from \$250,000 to \$1 million.

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

1. Delete requirements that the corporation must adhere to, including disclosure of property interests of any party contracting with the corporation in connection with a project, its responsibilities and those of any party contracting with the corporation in the development of a project, disclosure of contracts the board enters into, responsibilities of any party contracting with the corporation with respect to the financing of a project, public meetings and the posting of meeting minutes, adoption and maintenance of a policy on conflicts of interest, and the process for selection of qualified contractors.
2. Delete all requirements related to meetings of a corporation's board, conflicts of interest, and disclosure of certain information regarding financial interests in contracts under the supervision of the corporation's board.
3. Delete provisions related to contracts in excess of \$1 million, in favor of requiring the commissioner to select qualified corporations from a list of corporations submitted by the board of a system.
4. Authorize the board of a system to enter into agreements with one or more corporations to administer and manage projects.
5. Authorize the use alternative competitive procurement and delivery methods with public advertisement for the award of any contracts for the construction of any project in excess of \$1 million of total installed costs.
6. Require the commissioner and the director to approve all CEAs entered into between the board, a corporation, and the state prior to the commencement of any planning, design, or construction activities.
7. Require the CEA to set forth the requirements and responsibilities of each party and to conform to the standards of CEAs administered by FP&C.
8. Require monies to pay for the costs of projects to be disbursed by the director within 45 days of submission of project expenses to the director by the board.
9. Authorize the board of a system to undertake a project with a total installed cost of less than \$1 million if the project is approved by the board, the commissioner, and the director.
10. Require the director to monitor projects undertaken by a board.
11. Require the board and the corporation to submit written reports every six months which contains information on the status of each project administered by them.
12. Make technical changes.