

2019 Regular Session

HOUSE BILL NO. 195

BY REPRESENTATIVE DEVILLIER

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

CAPITAL OUTLAY: Provides relative to capital outlay reform

1 AN ACT

2 To amend and reenact R.S. 39:105(A), 112(C)(2)(b), (E)(1), (2)(introductory paragraph), (b)
3 and (c), and (F), 115(A) and (B), and 122(A) and to enact R.S. 39:112(H), relative
4 to capital outlay; to provide with respect to the capital outlay process; to provide for
5 certain definitions; to provide for certain requirements for nonstate projects; to
6 provide for changes to the amount and allocation of cash line of credit capacity each
7 fiscal year; to provide with respect to the local match requirements for certain
8 projects; to provide relative to line of credit recommendations for projects; to require
9 the approval of certain line of credit recommendations; to provide for certain
10 notifications; to require certain reports; to require the inclusion of certain information
11 concerning state indebtedness within the capital outlay act; to provide for
12 applicability; to provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 39:105(A), 112(C)(2)(b), (E)(1), (2)(introductory paragraph), (b) and
15 (c), and (F), 115(A) and (B), and 122(A) are hereby amended and reenacted and R.S.
16 39:112(H) is hereby enacted to read as follows:

17 §105. Capital Outlay reports to Joint Legislative Committee on Capital Outlay
18 A.(1) The office of facility planning and control and any state agency
19 authorized to administer capital outlay appropriations shall submit to the Joint
20 Legislative Committee on Capital Outlay, an annual written report no later than the

1 first day of February, of each project included in the prior year's capital outlay
2 budget which includes the following information:

3 ~~(1)~~(a) The title of the project.

4 ~~(2)~~(b) The total budget for the project from all means of financing.

5 ~~(3)~~(c) A breakdown of the funding of the project including all cash and
6 general obligation bond funding of the project.

7 ~~(4)~~(d) The amount of state and local funds, including local match funds,
8 expended on the project.

9 ~~(5)~~(e) The amount of project funding that has been encumbered, including
10 all cash and general obligation bond cash and noncash lines of credit approved for
11 the project.

12 ~~(6)~~(f) The total amount of funds the project will need to spend in the next
13 fiscal year.

14 ~~(7)~~(g) The current status of the project as either active or complete.

15 ~~(8)~~(h) If the project is complete, the total amount of unspent appropriations
16 remaining on the project, including the means of finance of the funds.

17 (2) All projects which are funded through a cash means of finance or which
18 received advance funding in a bond sale shall also be included in the annual report
19 required in Paragraph (1) of this Subsection regardless if the project was in the prior
20 year's capital outlay budget. Additionally, the office of facility planning and control
21 shall continue to include these projects in each annual report until a certificate of
22 completion for the project has been issued by the office of facility planning and
23 control.

24 * * *

25 §112. Capital outlay act

26 * * *

27 C.

28 * * *

1 (2) For purposes of this Section, the following terms shall have the following
2 meanings unless the context clearly indicates otherwise:

3 * * *

4 (b) "Economic development project" means a recruitment or retention
5 project undertaken or sponsored by the Department of Economic Development or a
6 political subdivision or other public entity which has economic development as part
7 of its stated mission or purpose, which meets one of the following criteria:

8 (i) Improvements on public or government-owned property for the purposes
9 of attracting or retaining a specific new or existing manufacturing or business
10 operation that benefits Louisiana:

11 ~~(ii) Facilities or improvements on public or government-owned property that~~
12 ~~generate~~ that generates new, permanent employment or which ~~help~~ helps retain
13 existing employment.

14 ~~(iii)(ii)~~ (ii) Facilities or infrastructure improvements on public or government-
15 owned property necessary for the manufacturing plant or business to operate.

16 * * *

17 E.(1)(a) General obligation bond funding of ~~non-state~~ nonstate projects shall
18 be limited to no more than twenty-five percent of the cash line of credit capacity for
19 projects in any fiscal year. ~~Non-state~~ Nonstate projects are those projects not owned
20 and operated by the state except those projects determined by the commissioner of
21 administration to be a regional economic development initiative or regional health
22 care facility operated in cooperation with the state. Nongovernmental entity projects
23 shall be ineligible for capital outlay funding. The allocation of general obligation
24 bond cash lines of credit for nonstate projects shall comply with the provisions of
25 Subparagraph (b) of this Paragraph and the allocation of general obligation bond
26 cash lines of credit for state projects shall comply with the provisions of
27 Subparagraph (c) of this Paragraph.

28 (b) Of the allocation of the general obligation bond cash lines of credit
29 granted in any fiscal year for nonstate projects, the commissioner shall divide ten

1 percent of the allocation among the parishes on a pro rata basis of population and
 2 number of homesteads in each parish in proportion to the population and number of
 3 homesteads throughout the state. The remaining fifteen percent of the general
 4 obligation bond cash lines of credit granted in any fiscal year to nonstate projects
 5 shall be prioritized to highway or bridge projects, flood control and flood prevention
 6 projects, or economic development projects. For purposes of this Subparagraph, the
 7 term "economic development project" shall mean any project undertaken by a
 8 nonstate entity which is determined by the governing authority of the parish in which
 9 the project is located to benefit the parish and which generates new, permanent
 10 employment.

11 (c) Of the allocation of general obligation bond cash lines of credit granted
 12 in any fiscal year for state projects, the commissioner shall direct no less than two
 13 thousand one hundred dollars of cash line of credit capacity for each state highway
 14 mile located within each highway district to the Department of Transportation and
 15 Development to fund projects which are deemed the highest priority by the district
 16 engineer within the geographic boundaries of each highway district. The allocation
 17 to highway districts may be used to fund costs for the lease or rental of movable
 18 equipment necessary for construction of deferred maintenance or drainage projects.
 19 Of the remaining general obligation bond cash lines of credit granted in any fiscal
 20 year to state projects, no less than fifty percent of the allocation shall be directed by
 21 the commissioner to fund highway and bridge projects.

22 (2) ~~Non-state~~ Nonstate entity projects shall require a match of not less than
 23 twenty-five percent of the total requested amount of funding except:

24 * * *

25 ~~(b) A project of a non-state entity which has demonstrated its inability to~~
 26 ~~provide a local match. The division of administration shall promulgate rules~~
 27 ~~establishing a needs-based formula for determining the inability of a non-state entity~~
 28 ~~to provide the required local match. However, such rules shall be approved by the~~
 29 ~~House Committee on Appropriations, the House Committee on Ways and Means, the~~

1 ~~Senate Committee on Finance, and the Senate Committee on Revenue and Fiscal~~
2 ~~Affairs before they are promulgated.~~

3 (c) A project for a rural water system servicing less than one thousand
4 customers to extend or connect waterlines to other water systems.

5 F.(1) The annual amount of new general obligation bond cash line of credit
6 capacity shall ~~be limited to two hundred million dollars annually adjusted for~~
7 ~~construction inflation from 1994.~~ not exceed:

8 (a) For Fiscal Year 2021, three hundred million dollars.

9 (b) For Fiscal Year 2022, two hundred seventy-five million dollars.

10 (c) For Fiscal Year 2023, two hundred fifty million dollars.

11 (d) For Fiscal Year 2024, and each year thereafter, two hundred twenty-five
12 million dollars.

13 (2) This limit shall only be raised by a favorable vote of two-thirds of the
14 elected members of each house of the legislature, which may be accomplished by
15 mail ballot.

16 * * *

17 H. The capital outlay act shall include a statement concerning the total
18 outstanding net state tax supported debt as defined in R.S. 39:1367, as reported in the
19 most recent report by the state treasurer concerning net state tax supported debt. The
20 amounts of principle and interest payable on this indebtedness shall be reported
21 separately. Further, it shall contain an estimate of debt service costs associated with
22 the amount of new general obligation bond cash line of credit capacity for that fiscal
23 year, pursuant to Subsection F of this Section. The net state tax supported debt
24 model shall be used in the calculation of the estimate.

25 * * *

26 §115. Notice requirements

27 A. The office of facility planning and control shall send notice to all ~~non-~~
28 state nonstate entities of the need to resubmit a capital outlay budget request for
29 projects that do not receive a line of credit for the total amount of bond proceeds

1 authorized in the capital outlay act for that fiscal year. The notice shall list all of the
2 ~~non-state~~ nonstate entity's projects which have not been recommended for lines of
3 credit or have not received lines of credit prior to September fifteenth of the year for
4 which notice is sent to the ~~non-state~~ nonstate entity.

5 B. The office of facility planning and control shall also send a notice of the
6 need to resubmit a capital outlay budget request to each state representative and state
7 senator who has any project in his geographic area that ~~did not receive~~ have not been
8 recommended for a line of credit or have not received a line of credit for the total
9 amount of bond proceeds authorized in the capital outlay act for that year. The
10 notice shall list all of the projects in the representative's or senator's geographic area
11 which have not received lines of credit prior to September fifteenth of the year for
12 which notice is sent to the representative or senator.

13 * * *

14 §122. Commencement of work

15 A. No work shall commence and no contract shall be entered into for any
16 project contained in the capital outlay act unless and until funds are available from
17 the cash sources indicated in the ~~act~~ Act or from the sale of bonds or from a line of
18 credit approved by the State Bond Commission, except contracts for Department of
19 Transportation and Development projects which are subject to the provisions of R.S.
20 48:251(D). The ~~Joint Legislative Committee on Capital Outlay~~ commissioner of
21 administration shall make recommendations to the ~~commissioner of administration~~
22 House Committee on Ways and Means and the Senate Committee on Revenue and
23 Fiscal Affairs concerning the ~~non-state~~ state and nonstate entity projects to be
24 granted lines of credit. The commissioner of administration shall submit to the ~~Joint~~
25 ~~Legislative Committee on Capital Outlay~~ House Committee on Ways and Means and
26 the Senate Committee on Revenue and Fiscal Affairs a list of state and nonstate
27 entity projects that ~~will be submitted to the State Bond Commission~~ the division of
28 administration recommends for lines of credit ~~a minimum of five days prior to the~~
29 ~~submission to the State Bond Commission.~~ no less than thirty days prior to the

Development (DED), the project is an emergency project recommended in writing by the commissioner of administration, the project is for a nonstate entity which meets certain present law requirements, or the project is located in a designated disaster area and it meets certain present law requirements.

Proposed law retains present law.

Present law requires the office of facility planning and control and any state agency which administers capital outlay appropriations to submit annual reports to the Joint Legislative Committee on Capital Outlay (JLCCO) of each project included in the prior year's capital outlay budget. The report includes information such as the project title, the total project budget from all means of financing, including state and local funds, local match information, information on funds expended and encumbered on the project, and the project's status.

Proposed law retains present law but adds a requirement that the information required to be reported in present law shall also be reported on projects which may no longer be in the prior year's capital outlay budget because the project received funding through a cash means of finance or from advance bond sales. Further requires this information to continue to be reported until a certificate of completion has been issued by the office of facility planning and control.

Present law provides for specific criteria that a project must meet in order to be considered an "economic development project". Criteria includes projects such as improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La. or facilities or improvements on public or government-owned property that generate new, permanent employment or which help retain existing employment.

Proposed law streamlines the criteria that a project must meet in order to be considered an economic development project to specify that the improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La. *and* generates new, permanent employment or which helps retain existing employment.

Proposed law prohibits projects from nongovernmental entities from being eligible for capital outlay funding.

Present law limits general obligation bond (GOB) funding of nonstate projects to no more than 25% of the cash line of credit capacity for projects in any fiscal year.

Proposed law retains the amount of cash line of credit capacity for nonstate projects but requires the commissioner of administration (commissioner) to divide 10% of the GOB allocation of cash line of credit granted to nonstate projects on a pro rata basis of population and number of homesteads in each parish in proportion to the population and number of homesteads throughout the state. The remaining 15% of the GOB cash line of credit capacity granted to nonstate projects shall be prioritized for highway, bridge, flood control and flood prevention projects, or economic development projects as defined in proposed law. Further defines "economic development project" for purposes of proposed law.

Proposed law requires that of the portion of GOB cash line of credit capacity for each fiscal year granted to state projects, the commissioner shall direct no less than \$2,100 for each state highway mile located within each highway district to the Dept. of Transportation and Development to fund projects which are deemed the highest priority by the district engineer within the geographic boundaries of each highway district.

Proposed law authorizes the allocation to highway districts to be used to fund costs for the lease or rental of movable equipment necessary for construction of deferred maintenance or

drainage projects. Further requires the commissioner to designate no less than 50% of the remaining GOB line of credit capacity to be directed to highway and bridge projects.

Present law requires nonstate entities applying for capital outlay funding to provide a match of not less than 25% of the total requested funding amount with the following exceptions:

- (1) Projects deemed to be an emergency by the commissioner.
- (2) Projects for which a nonstate entity has demonstrated its inability to provide a local match. Proposed law requires the establishment of a needs-based formula for determining the inability of a nonstate entity to provide the required local match.
- (3) Projects for rural water systems servicing less than 1,000 customers to extend or connect waterlines to other water systems.

Proposed law repeals the present law exception for nonstate entity projects for which the nonstate entity has demonstrated its inability to provide a local match.

Present law requires the JLCCO to make recommendations to the commissioner concerning nonstate entity projects to be granted lines of credit. Further requires the commissioner to submit the list of projects to be recommended for lines of credit to the JLCCO a minimum of five days prior to submission of the list to the State Bond Commission (SBC).

Proposed law changes present law by requiring the commissioner to make recommendations to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs (hereinafter "committees") concerning state and nonstate entity projects to be recommended for lines of credit. Further requires the commissioner to submit the list of recommendations to the committees no less than 30 days prior to the meeting date of the SBC in which the lines of credit are to be considered for funding.

Proposed law requires the committees to make final recommendations by either approving the list of recommendations or making changes to the list. Only projects which received approval from the committees can be submitted to the SBC for consideration of funding.

Present law limits the annual amount of general obligation bond cash line of credit capacity which may be authorized by the State Bond Commission (SBC) to \$200 million per year, adjusted for construction inflation from 1994. The amount may be raised by a favorable vote of 2/3rds of the elected members of each house of the legislature.

Proposed law changes present law by establishing the following specific amounts which may be authorized each year:

- (1) For Fiscal Year 2021, \$300 million.
- (2) For Fiscal Year 2022, \$275 million.
- (3) For Fiscal Year 2023, \$250 million.
- (4) For Fiscal Year 2024, and each year thereafter, \$225 million.

Proposed law retains authority for a change in the limit by a favorable vote of 2/3rds of the elected members of each house of the legislature and adds authority for that approval to be accomplished by mail ballot.

Present law requires the office of facility planning and control to send notice to all nonstate entities of the need to resubmit a capital outlay budget request for projects that do not receive a line of credit prior to Sept. 15th for the total amount of bond proceeds authorized

in the capital outlay act for that fiscal year. Further requires the notice to also be sent to each state representative and state senator who represents the geographic area of the project.

Proposed law retains present law but specifies that the notice is to be sent if the project has not received or been recommended for a line of credit prior to Sept. 15th of each year.

Present law establishes various requirements for content to be included in the capital outlay act.

Proposed law retains present law and adds a requirement that the capital outlay act include a statement concerning the total outstanding net state tax supported debt, including the specific amount of principle and interest, as defined in present law. Further, the capital outlay act shall contain an estimate of debt service costs associated with the amount of new GOB cash line of credit capacity for that fiscal year, as provided in proposed law.

Present law provides a procedure for the development of a list of recommended projects to be presented to the SBC for consideration for a GOB cash line of credit.

Proposed law retains present law and requires that for each project presented to the SBC for this purpose there be included an estimate of debt service costs associated with the sale of debt for the total project cost.

Applicable to the funding of all nonstate entity projects included in the capital outlay budget for fiscal years commencing on and after July 1, 2020.

Effective July 1, 2020.

(Amends R.S. 39:105(A), 112(C)(2)(b), (E)(1), (2)(intro. para.), (b) and (c), and (F), 115(A) and (B), and 122(A); Adds R.S. 39:112(H))