

CONFERENCE COMMITTEE REPORT

SB 277

2022 Regular Session

Cortez

June 3, 2022

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 277 by Senator Cortez, recommend the following concerning the Reengrossed bill:

- 1. That House Committee Amendments Nos. 2, 4, 5 and 7 through 26 proposed by the House Committee on Appropriations and adopted by the House of Representatives on May 18, 2022 be adopted.
- 2. That House Committee Amendments Nos. 1, 3, and 6 proposed by the House Committee on Appropriations and adopted by the House of Representatives on May 18, 2022 be rejected.
- 3. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete line 2 in its entirety, and insert the following:

"To amend and reenact R.S. 48:77(A), the introductory paragraph of 77(C), and (C)(1) and to enact R.S. 39:1367(E)(2)(b)(ix) and R.S. 48:77.1"

AMENDMENT NO. 2

On page 1, delete line 8 in its entirety and insert the following:

"Section 1. R.S. 39:1367(E)(2)(b)(ix) is hereby enacted to read as follows:
§1367. State debt; limitations

* * *

E. As used in this Section, the following terms shall have the following meanings ascribed to them unless the context clearly indicates otherwise:

* * *

(2)

* * *

(b) "Net state tax supported debt" shall not mean:

* * *

(ix) Any bond, note, or other evidence of indebtedness issued for the purpose of financing the projects set forth in R.S. 48:77.1 or any bonds issued to refund such bonds, notes, or evidence of indebtedness.

Section 2. R.S. 48:77(A), the introductory paragraph of 77(C), and (C)(1) are hereby"

AMENDMENT NO. 3

On page 2, between lines 4 and 5 insert:

"(1) For Fiscal Year 2023-2024, thirty percent of the avails shall be deposited into the subfund **and the Megaprojects Leverage Fund as provided in R.S. 48:77.1(A).**

(2) For Fiscal Year 2024-2025 and each fiscal year thereafter, sixty percent of the avails shall be deposited into the subfund and the Megaprojects Leverage Fund as provided in R.S. 48:77.1(A).

* * *

C. The Department of Transportation and Development shall utilize up to seventy-five percent of the monies deposited into the subfund or the Megaprojects Leverage Fund pursuant to Subsection A of this Section as follows:

(1) ~~In~~ For deposit into the Megaprojects Leverage Fund as provided in R.S. 48:77.1, in conjunction with innovative financing opportunities and on highway priority program projects classified as mega projects pursuant to the Department of Transportation and Development's definition of mega projects. The following mega projects shall be prioritized by the secretary of the Department of Transportation and Development and constructed in accordance with each project's completed and federally mandated environmental process and requirements."

AMENDMENT NO. 4

On page 2, line 14, after "R.S. 48:77(A)" insert ", provided however that the total deposits into the fund from these avails shall not exceed one hundred sixty million dollars in any fiscal year"

AMENDMENT NO. 5

On page 6, and the end of line 2, insert:

"This requirement shall not apply to any public-private partnership for which the solicitation process began prior to August 1, 2022."

Respectfully submitted,

Senators:

Representatives:

Senator Patrick Page Cortez

Representative Jerome "Zee" Zeringue

Senator Mack "Bodie" White

Representative Tanner D. Magee

Senator Rick Ward III

Representative Scott McKnight

The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

CONFERENCE COMMITTEE REPORT DIGEST

SB 277

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Cortez

Keyword and summary of the bill as proposed by the Conference Committee

FUNDS/FUNDING. Creates the Megaprojects Leverage Fund. (gov sig)

Report adopts House amendments to:

1. Add provisions specifying that the LA Highway 1 and LA Highway 30 connectors are part of the Baton Rouge bridge project pursuant to proposed law.
2. Add provisions removing bonds issued pursuant to proposed law from the calculation of "net state tax supported debt".
3. Add provisions allowing monies that would otherwise be deposited into an account created in proposed law to be diverted to other accounts in the event the secretary of the Dept. of Transportation and Development determines that it is not in the best interests of the state to proceed with the project associated with that account and submits a request not to proceed with the project to the House and Senate Committees on Transportation, Highways and Public Works, which both approve that request.
4. Make technical changes.

Report rejects House amendments which would have:

1. Added a provision specifying that the 75% of tax avails dedicated pursuant to present law to the Construction Subfund of the Transportation Trust Fund for mega projects are the avails that are dedicated to the Megaprojects Leverage Fund created in proposed law.
2. Made technical changes.

Report amends the bill to:

1. Add a provision specifying that the 75% of tax avails dedicated pursuant to present law to the Construction Subfund of the Transportation Trust Fund for mega projects are the avails that are dedicated to the Megaprojects Leverage Fund created in proposed law.
2. Limit the amount of the avails of the motor vehicle sales tax that can be deposited into the Megaprojects Leverage Fund in any fiscal year to \$160 million.
3. Make an exception to JLCB approval for public-private partnerships for any public-private partnership for which the solicitation process began before August 1, 2022.
4. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Present law (R.S. 48:77) provides that a portion of the taxes collected from the taxable sale, use, or lease of motor vehicles, after satisfying the requirements of the Bond Security and Redemption Fund, shall be deposited into the Construction Subfund (subfund) of the Transportation Trust Fund. Provides that for FY 2023-2024, 30% of such avails shall be deposited into the subfund and for FY 2024-2025 and thereafter, 60% of such avails shall be deposited into the subfund.

Proposed law retains present law but adds the Megaprojects Leverage Fund created in proposed law as an additional fund for deposit of the dedicated portion of the taxes collected from the taxable sale, use, or lease of motor vehicles.

Present law provides that in any fiscal year beginning with Fiscal Year 24-25, if the Revenue Estimating Conference revises the Official Forecast resulting in a decrease of \$100 million or more from the Official Forecast at the beginning of the current fiscal year, the amount of avails deposited into the subfund may not exceed \$150 million for that fiscal year. Proposed law repeals present law.

Present law provides that no debt shall be issued which in the aggregate exceeds \$150 million that is secured by monies deposited into the subfund. Proposed law repeals present law.

Proposed law (R.S. 48:77.1) creates the Megaprojects Leverage Fund in the state treasury and directs the state treasurer to deposit into the Megaprojects Leverage Fund 75% of the portion of the avails of the tax on the sale, use, or lease of motor vehicles dedicated pursuant to present law (R.S. 48:77), not to exceed \$160 million in any fiscal year.

Proposed law creates four special accounts in the Megaprojects Leverage Fund, into each of which shall be deposited 25% of the amount deposited into the Megaprojects Leverage Fund each year as well as any other monies appropriated to each special account each year. The four special accounts are the I-10 Calcasieu River Bridge and I-10 Improvements Account, the I-49 South Leverage Fund Account, the Mississippi River at Baton Rouge and Connections Account, and the I-49 North Leverage Fund Account. Provides that if a project is completed and issued final acceptance and any outstanding debt secured by the special account has been paid or defeased, no more deposits shall be made into that account and any monies in that account shall be divided equally between the remaining accounts that are eligible to receive deposits.

Proposed law provides that, if prior to the issuance of bonds for the project, the secretary of the Dept. of Transportation and Development (DOTD) determines it is not within the best interests of the state to proceed with a project for which an account has been created in proposed law, he may submit a request to the House and Senate Committees on Transportation, Highways and Public Works not to proceed. If the committees approve the request, proposed law provides that no more deposits shall be made into that account and any monies that would have been deposited in that account shall be divided equally between the remaining accounts that are eligible to receive deposits. Further provides that within 30 days of the committees' approval, the unexpended and unencumbered balance in the account is to be divided equally between the remaining accounts that are eligible to receive deposits.

Proposed law provides that once all projects described in present and proposed law have either been completed and issued final acceptance or the secretary's request not to proceed with the project has been approved, and any outstanding debt issued pursuant to proposed law has been repaid or defeased, then no further deposits shall be made into the Megaprojects Leverage Fund.

Proposed law requires DOTD to obtain approval from the Joint Legislative Committee on the Budget before entering into a public-private partnership with respect to one of the four megaprojects except for public-private partnerships for which solicitations began before August 1, 2022.

Proposed law provides for the investment of monies in the fund.

Proposed law provides that monies in the fund shall be appropriated only for (1) debt service on bonds issued pursuant to proposed law and (2) transfer to the Construction Subfund for certain projects enumerated in present and proposed law. The present and proposed law projects eligible for funding pursuant to proposed law are:

- (1) Replacement of the I-10 Calcasieu River bridge and I-10 improvements from the I-210 interchange west of the river to the I-210 interchange east of the river.
- (2) Upgrades to US 90 to interstate standards from the I-10 and I-49 interchange from Lafayette to New Orleans.

- (3) A new Mississippi River Bridge at Baton Rouge with freeway-level connections from I-10 west of Baton Rouge to I-10 east of Baton Rouge on LA Highway 1 and LA Highway 30.
- (4) Upgrades to I-49 North where I-49 is not yet upgraded.

Proposed law provides for the issuance of bonds secured by the motor vehicle sales and use tax deposited into the Megaprojects Leverage Fund, provided that the total amount of funds pledged shall not exceed \$25 million per year from any of the four accounts created in proposed law. Proceeds of the bonds shall be deposited into the subfund.

Proposed law provides for the creation of the Motor Vehicle Sales and Use Tax Bond Fund, to be administered by a trustee selected by the State Bond Commission (commission), into which shall be deposited such portion of the motor vehicle sales and use taxes that are taxable and transferred to the commission.

Proposed law provides that the bond resolution may contain provisions respecting: custody of the bond proceeds; investment of the motor vehicle sales taxes; credit enhancement devices for the bonds; the collection, custody, and use of the pledged revenues or other monies pledged therefor; reserves, sinking funds and other funds; covenants for the establishment of pledged revenue coverage requirements of the bonds; the issuance of additional parity or subordinate bonds; and covenants deemed necessary in order to better secure the bonds. Provides that the bonds are negotiable instruments, a valid and binding pledge, and exempt from state taxation.

Proposed law provides that the bonds issued pursuant to proposed law shall not be full faith and credit obligations of the state.

Proposed law provides that the bond resolution shall set forth the series, date, maturities, interest rates, redemption terms and priority on revenues. Bonds may be sold by competitive bid or negotiated sale. Proposed law provides for a 30-day preemption period.

Proposed law provides that the bonds shall not be included as "net state tax supported debt" pursuant to present law (R.S. 39:1367).

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

(Amends R.S. 48:77(A), (C)(intro. para.), and (C)(1) ; Adds R.S. 39:1367(E)(2)(b)(ix) and R.S. 48:77.1 and 77.2; Repeals R.S. 48:77 (B) and (E))