

2024 Regular Session

SENATE BILL NO. 318

BY SENATOR WOMACK

CAPITAL OUTLAY. Provides relative to the capital outlay process. (7/1/24)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 39:72.1(A)(1) and R.S. 39:112(E)(4) as enacted by Section 1 of Act 82 of the 2023 Regular Session of the Legislature of Louisiana, relative to capital outlay; to provide with respect to the capital outlay process; to require a nonstate entity to maintain an escrow account for certain projects; to provide for escrow account balance requirements; to provide relative to compliance with audit requirements; to require the commissioner of administration to promulgate rules; to provide for exemptions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:72.1(A)(1) is hereby amended and reenacted to read as follows:

§72.1. Compliance with audit requirements

A.(1) Notwithstanding any contrary provision of law, no funds appropriated directly or indirectly in the general appropriations act, the capital outlay act, or other appropriation act, or awarded from the Louisiana Department of Health Drinking Water Revolving Loan Fund, the Department of Environmental Quality Clean Water State Revolving Fund, or from the office of community development programs for

1 Community Development Block Grants, local government assistance program,
2 disaster recovery grants, the Community Water Enrichment and Other Improvements
3 Fund, or similar programs, shall be released or provided to any recipient of an
4 appropriation if, when, and for as long as, the recipient fails or refuses to comply
5 with the provisions of R.S. 24:513 or R.S. 39:112(E)(4).

6 * * *

7 Section 2. R.S. 39:112(E)(4) as enacted by Section 1 of Act 82 of the 2023 Regular
8 Session of the Legislature of Louisiana is hereby amended and reenacted to read as follows:

9 §112. Capital outlay act

10 * * *

11 E.(1) * * *

12 (4)(a) ~~In~~ Beginning on or after July 1, 2024, in addition to the match
13 required pursuant to the provisions of Paragraph (2) of this Subsection, a nonstate
14 entity ~~applying for~~ that receives funding for construction of a new project through
15 the Capital Outlay Act shall ~~also provide documentation evidencing its ability to~~
16 ~~provide no less than three percent of the total requested amount of funding~~ be
17 required to establish, fund, and maintain an escrow account to be used
18 exclusively for costs associated with the long-term major capital maintenance of the
19 project.

20 (b) The escrow account shall be a required condition of the cooperative
21 endeavor agreement between the nonstate entity and the office of facility
22 planning and control and shall be established prior to the first advertisement
23 for bids for the project.

24 (c) The escrow account shall contain no less than three percent of the
25 total project cost. Each year thereafter the nonstate entity shall deposit into the
26 escrow account an additional one-half percent of the total project cost until such
27 time the account balance reaches a minimum balance requirement of ten
28 percent of the total project cost. When the escrow account balance reaches the
29 ten percent threshold, no further deposits are required by the nonstate entity.

account to be used exclusively for costs associated with the long-term major capital maintenance of the project beginning on or after July 1, 2024.

Proposed law provides that the escrow account is a required condition of the cooperative endeavor agreement between the nonstate entity and the office of facility planning and control. Further requires that the escrow account be established prior to the first advertisement for bids for the project.

Proposed law requires the escrow account to contain no less than 3% of the total project cost. Each year thereafter the nonstate entity shall deposit into the escrow account an additional 0.5% of the total project cost until such time the account balance reaches a minimum balance requirement of 10% of the total project cost. When the escrow account balance reaches the 10% threshold, no further deposits are required by the non-state entity.

Proposed law requires that the escrow account be a separate interest bearing bank account denoted as a restricted asset to be used exclusively for costs associated with the long-term major capital maintenance of the project.

Present law provides that noncompliance by the nonstate entity will result in the project being deemed not feasible by the office of facility planning and control and excluded from the Capital Outlay Act.

Proposed law provides that failure of a nonstate entity to establish, fund, and maintain the escrow account shall result in the following actions:

- (1) The project being deemed not feasible by the office of facility planning and control.
- (2) The project and all future projects submitted by the nonstate entity shall not be included in the Capital Outlay Act.
- (3) An audit finding of noncompliance by the legislative auditor.

Proposed law exempts certain land acquisitions, large equipment acquisitions, and earthworks projects from the requirements of proposed law as determined by rule.

Proposed law requires the division of administration to promulgate rules for the implementation of proposed law.

Effective July 1, 2024.

(Amends R.S. 39:72.1 (A)(1) and R.S. 39:112(E)(4) as enacted by Acts 2023, No. 82, §1)