

2017 Second Extraordinary Session

HOUSE BILL NO. 3

BY REPRESENTATIVE ABRAMSON

CAPITAL OUTLAY: Provides for the Omnibus Bond Act and provides for limitations on certain appropriations included in the Capital Outlay Act for Fiscal Year 2017-2018 (Item #4)

1 AN ACT

2 To enact the Omnibus Bond Authorization Act of 2017, relative to the implementation of
3 a five-year capital improvement program; to provide for the repeal of certain prior
4 bond authorizations; to provide for new bond authorizations; to provide for
5 authorization and sale of such bonds by the State Bond Commission; to provide
6 relative to the submission of capital outlay applications; to provide with respect to
7 the resubmission of certain capital outlay budget requests; to require approval of the
8 State Bond Commission under certain circumstances; to provide for an effective
9 date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. The legislature hereby recognizes that the Constitution of Louisiana
12 provides in Article VII, Section 11, that the governor shall present to the legislature a five-
13 year Capital Outlay Program and request implementation of the first year of such program,
14 and that the capital outlay projects approved by the legislature are to be made part of the
15 comprehensive state capital budget which shall, in turn, be adopted by the legislature.
16 Further, all projects in such budget adopted by the legislature requiring bond funds must be
17 authorized as provided in Article VII, Section 6 of the Constitution of Louisiana. The
18 legislature finds that over a period of years the legislature has enacted numerous bond
19 authorizations, but due to inflation and the requirements of specificity of amount for each
20 project, impossibility, or impracticability, many of the projects cannot be undertaken. All

1 of the unissued bonds must be listed in the financial statements of the state prepared from
2 time to time and in connection with the marketing of bonds, and are taken into account by
3 rating agencies, prospective purchasers, and investors in evaluating the investment quality
4 and credit worthiness of bonds being offered for sale. The continued carrying of the
5 aforesaid unissued bonds on the financial statements of the state under the above described
6 circumstances operates unnecessarily to the financial detriment of the state. Accordingly, the
7 legislature deems it necessary and in the best financial interest of the state to repeal all Acts,
8 except any Act authorizing the issuance of refunding bonds and Act 41 of the 2006 First
9 Extraordinary Session, providing for the issuance of general obligation bonds in the state
10 which cannot be issued for the projects contemplated, and in their stead to reauthorize
11 general obligation bonds of the state for those projects deemed to be essential, and to
12 authorize new projects.

13 Section 2. It is the intent of the legislature that this Act shall constitute the Omnibus
14 Bond Authorization Act of 2017 and, together with any Act authorizing the issuance of
15 refunding bonds and Act 41 of the 2006 First Extraordinary Session, shall provide bond
16 authorization, as required by Article VII, Section 6 of the Constitution of Louisiana, for
17 those projects to be funded totally or partially by the sale of general obligation bonds and
18 included in House Bill No. 2 of the 2017 Second Extraordinary Session as finally enacted
19 into law (2017 Capital Outlay Act). It is the further intent of the legislature that in this year
20 and each year hereafter an Omnibus Bond Authorization Act shall be enacted providing for
21 the repeal of state general obligation bond authorizations for projects no longer found
22 feasible or desirable, the reauthorization of those bonds not sold during the prior fiscal year
23 for projects deemed to be of such priority as to warrant such reauthorization, and to enact
24 new authorization for projects found to be needed for capital improvements.

25 Section 3. Except as hereinafter provided, all prior Acts of the legislature authorizing
26 the issuance of general obligation bonds of the state of Louisiana shall be and the same are
27 hereby repealed in their entirety, including without limitation House Bill No. 3 of the 2016
28 Second Extraordinary Session of the Louisiana Legislature as finally enacted into law (2016
29 Omnibus Bond Authorization Act) and any Acts heretofore repealed with such Act. This
30 repeal shall not be applicable to any Act providing for the issuance of refunding bonds nor

1 to Act 41 of the 2006 First Extraordinary Session, and such Acts shall remain in full force
2 and effect and shall not be affected by the provisions of this Act. In addition, the repeal shall
3 not in any manner affect the validity of any bonds heretofore issued pursuant to any of the
4 bond authorizations repealed hereby.

5 Section 4. To provide funds for certain capital improvement projects the State Bond
6 Commission is hereby authorized pursuant to Article VII, Section 6 of the Constitution of
7 Louisiana to issue general obligation bonds or other general obligations of the state for
8 capital improvements for the projects, and subject to any terms and conditions set forth on
9 the issuance of bonds or the expenditure of monies for each project as is provided for in the
10 2017 Capital Outlay Act.

11 Section 5.(A) To provide funds for certain capital improvement projects authorized
12 prior to this Act and by this Act, which projects are designed to provide for reimbursement
13 of debt service on general obligation bonds, the State Bond Commission is hereby authorized
14 pursuant to Article VII, Section 6 of the Constitution of Louisiana, to issue general
15 obligation bonds of the state, hereinafter referred to as "project bonds", for capital
16 improvements for the projects and subject to any terms and conditions set forth on the
17 issuance of bonds or the expenditure of monies for each such project as provided in the 2017
18 Capital Outlay Act the terms of which require such reimbursement of debt service.

19 (B) Without affecting, restricting, or limiting the pledge herein made of the full faith
20 and credit of the state of Louisiana to the payment of the general obligation bonds authorized
21 by this Section and without affecting, restricting, or limiting the obligation of the state to pay
22 the same from monies pledged and dedicated to and paid into the Bond Security and
23 Redemption Fund, but in order to decrease the possible financial burden on the general funds
24 of the state resulting from this pledge and obligation, the applicable management board,
25 governing body, or state agency for which any of such project bonds are issued, in the fiscal
26 year in which such project bonds are issued and in each fiscal year thereafter until such
27 project bonds and the interest thereon are paid, shall transfer and make available to the state
28 treasury, for deposit in the Bond Security and Redemption Fund, designated student fees or
29 revenues or other revenues in an amount equal to the debt service on such project bonds in
30 such fiscal year. In addition, the applicable management board, governing body, or state

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

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

1 This authorization shall provide for the dates, amounts, and other details for the
2 payments required to be made to the state treasury and for the reserve account. The
3 authorization may contain such covenants with the State Bond Commission regarding the
4 fixing of rates for fees and charges or revenues and such other covenants and agreements
5 with the State Bond Commission as will assure the required payments to the state treasury.
6 The contract shall be subject to approval by the Office of the Attorney General and the State
7 Bond Commission and, when so accepted and approved, shall conclusively constitute and
8 be the reimbursement contract for an authorized project, as required hereunder.

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

1 an authorized project have been paid, the applicable management board, governing body,
2 or state agency shall impose fees and charges in an amount sufficient to comply with the
3 covenants securing outstanding bonds and to make the payments required by the
4 reimbursement contract.

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

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

23 Section 6. The bonds authorized to be sold by the State Bond Commission pursuant
24 to this Act shall be issued and sold in conformity with the provisions of Article VII, Section
25 6 of the Louisiana Constitution, R.S. 39:1361 through R.S. 39:1367, and R.S. 39:1401
26 through R.S. 39:1430.1, and any amendments thereto adopted prior to, at the same time as,
27 or subsequent to, the effective date of this Act. However, the provisions of R.S. 39:1365(9)
28 shall not apply to any bonds issued hereunder in the form of variable rate and/or tender
29 option bonds and that said bonds need not be issued in serial form and may mature in such
30 year or years as may be specified by the State Bond Commission. Should any provision of

1 this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the
2 provision of this Act shall govern. In connection with the issuance of the bonds authorized
3 hereby, the State Bond Commission may, without regard to any other laws of the state
4 relating to the procurement of services, insurance, or facilities, enter into contracts upon such
5 terms as it deems advantageous to the state for (1) the obtaining of credit enhancement or
6 liquidity devices designed to improve the marketability of the bonds and (2) if the bonds are
7 structured as variable rate and/or tender option bonds to provide the services and facilities
8 required for or deemed appropriate by the State Bond Commission for such type of bonds,
9 including those of tender agents, placement agents, indexing agents, remarketing agents,
10 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or
11 liquidity devices and fees for other services set forth in this Section shall, if authorized by
12 the State Bond Commission, be paid from the Bond Security and Redemption Fund as a
13 requirement with respect to the issuance of the bonds authorized hereby. The bonds shall be
14 general obligations of the state of Louisiana, to the payment of which, as to principal,
15 premium, if any, and interest, as and when the same become due, the full faith and credit of
16 the state is hereby irrevocably pledged. These bonds shall be secured by monies in the Bond
17 Security and Redemption Fund and shall be payable on a parity with bonds and other
18 obligations heretofore and hereafter issued which are secured by that fund. The maximum
19 interest rate or rates on such bonds, and their maturities, shall be determined by the State
20 Bond Commission. The state treasurer shall invest all bond proceeds until disbursed.

21 Section 7. Unless specifically repealed, this Act shall expire, and be considered null
22 and void and of no further effect on June 30, 2018, except as to any bonds authorized herein
23 (1) which have been sold, (2) to which lines of credit have been issued, or (3) for which
24 contracts for construction have been signed.

25 Section 8. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects
26 included within Section (1)(A) of House Bill No. 2 of the 2017 Second Extraordinary
27 Session of the Legislature are hereby deemed to have timely submitted capital outlay budget
28 request applications for Fiscal Year 2017-2018 and to have complied with the late approval
29 requirements of R.S. 39:112(C), and as such shall be eligible for cash and noncash lines of

1 credit for Fiscal Year 2017-2018. Beginning in Fiscal Year 2018-2019, all projects shall
2 comply with the provisions of R.S. 39:101(A) and 112(C).

3 Section 9. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects
4 included within Section (1)(B) of House Bill No. 2 of the 2017 Second Extraordinary
5 Session of the Legislature are hereby deemed to have until June 19, 2017, to submit capital
6 outlay budget request applications pursuant to R.S. 39:101(A) and to obtain late approval
7 pursuant to the provisions of R.S. 39:112(C). Beginning in Fiscal Year 2018-2019, all
8 projects shall comply with the provisions of R.S. 39:101(A) and 112(C).

9 Section 10. No project which receives an appropriation in the Capital Outlay Act for
10 Fiscal Year 2017-2018 shall be exempt from any provision of the public bid laws or laws
11 pertaining to the review of plans and specifications by the state entity administering the
12 project without prior authorization from the State Bond Commission. Furthermore, no entity
13 that receives an appropriation in the Capital Outlay Act shall enter into contracts prior to the
14 issuance of a line of credit, prior to receipt of funding, or prior to entering into a cooperative
15 endeavor agreement, nor may the entity be reimbursed for any such expenditures without
16 prior authorization from the State Bond Commission. Notwithstanding anything in this Act,
17 or any other Capital Outlay Act, the Milne Boys Home Complex - North and South Cottage
18 Renovation project is hereby transferred from the Gentilly Development District to the City
19 of New Orleans. Furthermore, the issuance of a line of credit for all or a portion of the funds
20 in Priority 2 or Priority 5 for the Milne Boys Home Complex - North and South Cottage
21 Renovation project shall be subject to the submission of a duly adopted resolution of the City
22 Council of New Orleans in support of the Gentilly Development District, which resolution
23 shall be submitted to the commissioner of administration, the State Bond Commission, and
24 the attorney general.

25 Section 11. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

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)]

HB 3 Reengrossed

2017 Second Extraordinary Session

Abramson

Abstract: Provides for the implementation of a five-year capital improvement program; provides for limitations and exceptions for projects receiving capital outlay appropriations for FY 2017-2018; and prohibits certain exemptions from present law without the approval of the State Bond Commission.

Proposed 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 deems projects included within Section (1)(A) of HB No. 2 of the 2017 2 E.S. to have timely submitted capital outlay budget request applications for FY 2017-2018 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 2017-2018.

Proposed law deems projects included within Section (1)(B) of HB No. 2 of the 2017 2 E.S. to have until June 19, 2017, to submit capital outlay budget request applications and to obtain late approval pursuant to present law.

Proposed law prohibits projects receiving capital outlay appropriations for FY 2017-2018 from being exempt from public bid laws or laws pertaining to the review of plans and specifications by administering agencies without prior authorization from the State Bond Commission. Further prohibits entities receiving capital outlay appropriations for FY 2017-2018 from entering into contracts prior to the issuance of a line of credit, prior to receipt of funding, or prior to entering into a CEA, nor receiving reimbursement for expenditures without prior authorization from the State Bond Commission.

Proposed law transfers the Milne Boys Home Complex - North and South Cottage Renovation project is hereby transferred from the Gentilly Development District to the City of New Orleans. Further provides that the issuance of a line of credit for all or a portion of the funds in Priority 2 or Priority 5 for the Milne Boys Home Complex - North and South Cottage Renovation project shall be subject to the submission of a duly adopted resolution of the City Council of New Orleans in support of the Gentilly Development District, which resolution shall be submitted to the commissioner of administration, the State Bond Commission, and the attorney general.

Proposed law requires all projects receiving capital outlay appropriations to comply with the provisions of present law beginning in FY 2018-2019.

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

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Change references from the 2017 R.S. to the 2017 2 E.S.
2. Provide that the projects in Section 1(A) of HB No. 2 of the 2017 2 E.S. are deemed to have *submitted* rather than *resubmitted* their capital outlay budget request applications and to have complied with the late approval requirements of present law.

3. Clarify that no entity receiving an appropriation in the Capital Outlay Act for Fiscal Year 2017-2018 is allowed to enter into contracts prior to the issuance of a line of credit, prior to receipt of funding, or prior to entering into a cooperative endeavor agreement, or to be reimbursed for any expenditures without prior authorization of the State Bond Commission.