

SENATE BILL NO. 148

BY SENATOR CHABERT

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

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AN ACT

To enact Chapter 48 of Title 34 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 34:3471 through 3483, relative to waterways; to provide for a priority program for the deepening and dredging of waterways; to establish the Dredging and Deepening Fund; to provide for certain terms, definitions, language, conditions, procedures, and requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 48 of Title 34 of the Louisiana Revised Statutes of 1950, comprised of R.S. 34:3471 through 3483, is hereby enacted to read as follows:

**CHAPTER 48. WATERWAY DREDGING AND DEEPENING**

**PRIORITY PROGRAM**

**§3471. Definitions**

**As used in this Chapter, unless the context clearly indicates otherwise, the following definitions shall apply:**

**(1) "Department" means the Department of Transportation and Development.**

**(2) "Governmental entity" means the state or any political subdivision and the federal government as a cost share partner.**

**(3) "Joint committee" means the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works, functioning as a joint legislative committee.**

**(4) "Office" means the office of multimodal commerce within the Department of Transportation and Development.**

**(5) "Waterway" means any navigable bayou, canal, channel, or river, or portion thereof.**

1           (6) "Waterway dredging and deepening priority program" means the  
2           priority list of projects submitted by the office and approved by the joint  
3           committee pursuant to this Chapter.

4           (7) "Waterway project" means a program, either new or continuing, that  
5           is planned and implemented with the primary goal of dredging and deepening  
6           waterways in the state to include cost share projects with the federal  
7           government and construction and maintenance costs associated with dredging  
8           and disposing of dredged material.

9           §3472. Methodology for dredging and deepening project evaluation

10           A.(1) Applications for funding of any waterway project may be  
11           submitted by any governmental entity on a quarterly basis, except as provided  
12           in R.S. 34:3476. Applications shall be submitted to the office no later than the  
13           first of March, June, September, and December of each calendar year for  
14           consideration of funding or funding obligation authority in the following fiscal  
15           years. Applications submitted in accordance with the provisions of this Chapter  
16           shall be subject to the provisions of R.S. 39:101 through 128. Information to be  
17           provided in the application shall include but not be limited to the following:

18           (a) Description of the project and demonstration of immediate need for  
19           the project.

20           (b) Preliminary project design and cost estimate.

21           (c) Description of project area.

22           (2) Project applications shall not be subject to formal review and  
23           evaluation until the information required in the application has been submitted.

24           B. Applications shall be reviewed by the office and any other appropriate  
25           state agencies within sixty days after receipt of such applications by the office.

26           C. Procedures for review and evaluation shall be developed by the office.  
27           Prior to implementing the review and evaluation procedures, the office shall  
28           secure the approval of these procedures by the oversight committees in  
29           accordance with the Administrative Procedure Act. The procedures and a set  
30           of guidelines for completing project applications shall be made available to

1 eligible governmental entities upon request.

2 D. The office may contract for any of the duties associated with the  
3 development of the waterway dredging and deepening priority program,  
4 including but not limited to the development, review, and evaluation of plans  
5 and specifications, and the development of the waterway dredging and  
6 deepening priority program list. However, development of and authority over  
7 the final determination of the waterway dredging and deepening priority list  
8 shall remain with the department and the joint committee as provided in this  
9 Chapter.

10 E. The office shall insure that an inventory is maintained of waterways,  
11 public and private, with respect to their location, capacities, and capabilities  
12 and serve as a clearinghouse for inquiries for waterways information, data, and  
13 technical and research assistance.

14 F. The office shall have prepared each year a summary report containing  
15 projections of state, federal, local, and private financial requirements for  
16 dredging and deepening waterways.

17 §3473. Priority list of projects; public hearings; final program

18 Each quarter, the office shall prepare and furnish to the joint committee  
19 a prioritized list of projects based on the applications received by the office  
20 during that quarter. The joint committee shall receive the prioritized list of  
21 projects from the office for each of the first three quarters of the year, and shall  
22 call a public hearing within thirty days of receiving the list in order to receive  
23 public testimony regarding any project on the list. At such hearing, the joint  
24 committee shall vote to either accept, reject, or modify the list. Each quarter,  
25 the office shall reprioritize the list of projects to reflect the cumulative list of  
26 projects recommended by the office. After application recommendations for  
27 the last quarter are made by the office, the office shall submit the final  
28 waterway dredging and deepening priority program for the ensuing fiscal year  
29 to the joint committee for approval. Prior to the convening of the regular  
30 session of the legislature, the joint committee shall hold a public hearing for the

1 purpose of reviewing the final program for the ensuing fiscal year. Prior to  
2 such hearing, the office shall publish the appropriate official notice on the  
3 department's website. The final program shall be based upon the anticipated  
4 revenues to be appropriated by the legislature or other funding obligation  
5 authority and the projects shall be listed in order of priority. When this final  
6 construction program is presented to the legislature for funding or funding  
7 obligation authority for the ensuing fiscal year, the legislature shall not add any  
8 projects to this final construction program. Any project recommended by the  
9 office and approved by the joint committee for which funds are unavailable in  
10 the fiscal year but for which it was approved shall remain on the prioritized list  
11 of projects and shall be carried forward to the next fiscal year.

12 §3474. Supplemental list of projects

13 The office also shall provide to the joint committee annually a  
14 supplemental list of projects proposed to be commenced or authorized within  
15 the ensuing four years which are in various stages of planning and preparation.  
16 The supplemental list shall be subject to change by the office until the office  
17 finally approves each project.

18 §3475. Projects undertaken by the office

19 A. After adoption of the office's recommendations by the joint  
20 committee, the approved list of projects shall be forwarded to the office for  
21 implementation. The approved list shall be implemented by the office by the  
22 use of funds appropriated, funding obligation authority, or pursuant to the cash  
23 management program as provided by R.S. 48:251(D). Funding or funding  
24 obligation authority shall be allocated to projects in accordance with the  
25 prioritized list of projects approved by the joint committee. Funding obligation  
26 authority may be granted or authorized for a project from funds appropriated  
27 or obligated for another project or projects within the Waterway Dredging and  
28 Deepening Priority Program provided that such authority does not impede such  
29 project or projects. Such funding obligation authority shall be extinguished for  
30 a project at such time as funds are made available for obligation for the project.

1           The office shall not delete, add, or substitute any projects for those approved by  
 2           the joint committee, except as provided in R.S. 34:3476.

3           B. No waterway project shall be undertaken by the office except those  
 4           included in the approved program listing which are funded or which have  
 5           funding obligation authority for that fiscal year.

6           §3476. Commencement of projects; substitutions

7           The projects planned for the year for which appropriations have been  
 8           made or which have funding obligation authority shall be commenced in that  
 9           year; however, if a project cannot be commenced within the year for which it  
 10           is authorized, the commissioner of the office of multimodal commerce shall file  
 11           with the project records a public statement as to the factors causing the delay.  
 12           Projects which have been funded or which have obligation authority shall retain  
 13           such funding or authority until the project is completed and the project costs  
 14           are liquidated.

15           §3477. Allocation, reallocation of funds; deposit to Dredging and Deepening

16                   Fund

17           A. The Dredging and Deepening Fund is hereby created within the state  
 18           treasury and shall be a source of state funds in addition to capital outlay  
 19           projects, the general fund, and other sources, provided for any waterway  
 20           project on the priority list approved pursuant to the provisions of this Chapter.

21           B. Prior to the commencement of any work, the office shall require the  
 22           presiding officer of each governmental entity involved in a project to execute an  
 23           agreement and statement of sponsorship to provide no less than a ten percent  
 24           local match for the cost of the project.

25           C. A sponsoring authority may make application under the provisions  
 26           of this Chapter to receive a portion of the funds required to participate in a  
 27           federal matching program.

28           D. Any monies allocated for any project not needed for said project may  
 29           be reallocated for the completion of any other project or projects specified. Any  
 30           monies not needed for the completion of said projects shall be deposited in and

1 credited to the Dredging and Deepening Fund.

2 E. The sources of monies deposited into the fund shall be legislative  
3 appropriations and grants, gifts, and donations received by the state for the  
4 purposes of this Chapter. Monies in the fund shall be subject to appropriation  
5 by the legislature and shall be available exclusively for waterway projects. All  
6 unexpended and unencumbered monies in the fund at the end of the fiscal year  
7 shall remain in the fund. Such monies shall be invested by the treasurer in the  
8 same manner as the monies in the state general fund, and all interest earned  
9 shall be credited to the fund following compliance with the requirements of  
10 Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond  
11 Security and Redemption Fund.

12 §3478. Preparation of plans and specifications; letting of bids for construction;  
13 supervision of construction

14 The port authority shall be responsible for the preparation of plans and  
15 specifications for their respective project. The port authority shall also be  
16 responsible for the letting of bids, the public advertising, and the supervision of  
17 work for all projects, all in accordance with the provisions of this Chapter.

18 §3479. Inspection

19 A. The office shall approve the engineering and construction plans for  
20 any proposed projects that are prepared by consultant or contract engineers for  
21 any recipient governmental entity. The office may inspect the construction of  
22 a project at any time to assure project compliance.

23 B. The office shall inspect a completed project with the consultant or  
24 contract engineer. The engineer shall certify that construction is in accordance  
25 with plans and specifications. The office may inspect a completed project at any  
26 time to assure that the project is being maintained in accordance with project  
27 specifications and agreements.

28 §3480. System of administration

29 Each governmental entity shall adopt a system of administration which  
30 shall require approval of the office for any expenditures made out of state and

1 local matching funds, and no governmental entity shall expend any funds on an  
2 approved project without the approval of the office. Each governmental entity  
3 shall adopt a system of administration which shall include the development of  
4 a capital improvement program on a selective basis, centralized purchasing of  
5 equipment and supplies, centralized accounting, and selective maintenance and  
6 construction based upon engineering plans and inspections. All contracts for  
7 materials, construction, or services shall be advertised and awarded to the  
8 lowest responsible bidder in accordance with the provisions of R.S. 38:2212.

9 §3481. Audit of distribution to recipient governmental entities

10 The state monies distributed to the governmental entity and the local  
11 matching funds shall be audited by the legislative auditor or a certified public  
12 accountant at least biennially pursuant to R.S. 24:513(A) and shall issue and  
13 distribute all audit reports pursuant to R.S. 24:516(A). To the extent that funds  
14 available to the legislative auditor permit, the audits of each recipient  
15 governmental entity of the use of the monies shall include an investigation of  
16 any failure to comply with the recommendations for planning, design, and  
17 construction adopted by the office. The recipient governmental entity shall  
18 certify annually to the legislative auditor that the funds made available under  
19 this Chapter have been expended in accordance with the standards established  
20 by law.

21 §3482. Report of any misuse of funds

22 If the legislative auditor determines that any expenditures by the  
23 recipient governmental entity have not been made in accordance with this  
24 Chapter, he shall promptly report the facts of such expenditure to the  
25 Legislative Audit Advisory Council. The council shall make further  
26 investigation of the matter as it deems necessary.

27 §3483. Misuse of funds; withholding of distribution; notification of district  
28 attorney

29 A.(1) If, on the basis of the report of the legislative auditor, or from its  
30 own investigation, the Legislative Audit Advisory Council, hereinafter referred

1 to as the "council", determines that there has been a misuse by a recipient  
2 governmental entity of funds from the program, it shall then determine whether  
3 a partial or total withholding of the governmental entity's appropriation for any  
4 remaining portion of the current fiscal year shall be necessary. Should the  
5 council determine that it is necessary to withhold all or any part of the  
6 governmental entity's appropriation, the council shall send notification of its  
7 determination to the co-chairmen of the joint committee and to each member  
8 of the legislature who represents any portion of the governmental entity.

9 (2) If, thirty days after the co-chairmen and the members of the  
10 legislature are notified, the council determines that the misuse has not yet  
11 ceased, the council shall, by written resolution, instruct the state treasurer to  
12 immediately suspend distributions to the governmental entity of funds  
13 appropriated for the program. The suspension of funds shall remain in effect  
14 until the Legislative Audit Advisory Council verifies, in writing, to the state  
15 treasurer that the offending entity is again in compliance with this Chapter.  
16 Such written verification shall be given when the legislative auditor certifies to  
17 the council that, to the best of his knowledge, the entity is in compliance with  
18 this Chapter or, in the absence of said certification, when the council determines  
19 that the entity is in compliance with this Chapter. Upon receipt of the council's  
20 written verification, the state treasurer shall reinstate the distribution of funds  
21 and distribute all funds previously withheld to the affected recipient  
22 governmental entity.

23 (3) The council shall report any action it has taken with regard to the  
24 suspension of funds to the joint committee and to the legislature at the next  
25 regular session, along with any recommendations it may have for forfeiture of  
26 suspended funds by those entities that are still in noncompliance with this  
27 Chapter. Forfeiture of funds can be authorized only by the legislature.

28 B. In any case where there has been a determination made by the council  
29 that there has been a misuse by a recipient governmental entity of funds  
30 appropriated for the program, the council shall furnish a copy of the written

1           resolution directing the state treasurer to withhold funds, to the district  
2           attorney of the parish or parishes where the misuse of funds occurred. The  
3           district attorney shall, within thirty days, advise the chairman of the council as  
4           to action he has taken or proposes to take in connection with the misuse of funds  
5           cited in the resolution. Where future action is proposed by the district attorney,  
6           the council shall set a date for receipt of further advice in the matter. Where  
7           such advice is not forthcoming from the district attorney, or where it is evident  
8           that suitable action has not been taken, the council shall report the matter to the  
9           joint committee and to the legislature at its next regular session for whatever  
10           action the joint committee and the legislature deems advisable under the  
11           circumstances.

12           Section 2. This Act shall become effective on July 1, 2017.

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PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_