
DIGEST

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HB 336 Reengrossed

2023 Regular Session

Bishop

Abstract: Adds reporting requirements for capital outlay projects, requires projects funded through the issuance of debt to be included in the Capital Outlay Act, adds application requirements, requires the timely submission of invoices, and eliminates the needs-based exemption from the local match requirement for nonstate entity projects.

Present law requires the governor to submit his capital outlay budget which implements the first year of the five-year capital outlay program and the bond authorization bill for the sale of bonds to fund projects included in the bond portion of the capital outlay bill to the legislature no later than the 8th day of each regular session.

Present law requires capital outlay budget requests to be submitted by Nov. 1st, but authorizes a capital outlay budget request submitted after Nov. 1st to be included in the Capital Outlay Act if the budget request meets all of the applicable requirements as provided in present law, except for time of submission, and the project is an economic development project recommended in writing by the secretary of the Dept. of Economic Development, 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 an annual report to the Joint Legislative Committee on Capital Outlay (JLCCO) of each project included in the prior year's capital outlay budget. The report is required to include 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 for projects which are no longer 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 entity administering the project.

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 of administration and approved by JLCCO.
- (2) Projects for which a nonstate entity has demonstrated its inability to provide a local match. Present 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 a water or sewer system servicing 1,250 or fewer connections.
- (4) Projects undertaken by a governmental entity to provide natural gas utility services for a system that services 1,250 or fewer connections.

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. Otherwise retains present law.

Proposed law requires a nonstate entity, when applying for capital outlay funding for construction of a new project, to provide documentation evidencing its ability to provide no less than 3% of the total requested amount of funding to be used exclusively for costs associated with the long-term maintenance of the project. Failure to provide this documentation shall result in the project being deemed not feasible by the office of facility planning and control and the project not being included in the Capital Outlay Act.

Present law requires projects funded through the sale of bonds and secured by or payable from state appropriation to be included in the Capital Outlay Act or if not included in the Capital Outlay Act to be approved between sessions by the division of administration submitting those projects to the Interim Emergency Board for approval by a majority vote of the elected members of each house of the legislature. Further requires, following legislative approval, that requests to sell bonds be submitted to the State Bond Commission (SBC) for review and approval.

Proposed law retains present law regarding legislative approval and submission to the SBC for review and approval but changes the projects which are required to go through this approval process from projects funded through the sale of bonds to projects funded through the issuance of debt or other agreements including agreements of lease, lease-purchase, or third party financing.

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 general obligation (GO) bond 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 GO bond 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.

Present law provides for the Capital Outlay Savings Fund as a special fund in the state treasury and restricts use of the monies in the fund to capital outlay projects and to allocate or appropriate funds into the Budget Stabilization Fund. Further provides that if a project included in the capital outlay budget that has a state general fund (SGF) direct non-recurring revenue appropriation is deemed null or is vetoed, the state treasurer is directed to deposit into the fund an amount equal to the amount of the appropriation deemed null or vetoed from the nonrecurring revenues in the SGF.

Proposed law retains present law but adds a requirement that a general fund appropriation, regardless of whether it is recurring or non-recurring revenue, for a project deemed null or vetoed be deposited into the fund.

Proposed law requires any entity administering a capital outlay project to require all parties performing any portion of planning and designing or personnel contracted with for the construction of a capital outlay project to submit invoices for the payment of services rendered or performed within 120 days of the date the services were rendered or performed. Failure of a party to timely submit an invoice for services rendered or performed shall result in the party's claim for reimbursement or payment from the state being denied.

Proposed law prohibits the owner of a project that received GO bond funding through the capital outlay budget from selling or otherwise disposing of the project while repayment of the bonds, including debt service, is outstanding without the prior approval of the commissioner of administration.

Proposed law requires the property owner to obtain an opinion from state bond counsel, at the owner's cost, that the sale would not have affected the tax exempt status of the bonds. Further requires the property owner to meet any conditions or requirements prior to selling or disposing of the project.

Proposed law requires the commissioner of administration to notify the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs in writing, within 10 days of his approval of a property owner to dispose of a project that received funding through the sale of GO bonds.

Proposed law applies to the funding of all nonstate entity projects included in the capital outlay budget for fiscal years commencing on or after July 1, 2024.

Effective July 1, 2024.

(Amends R.S. 39:100.121(A)(1) and (2)(b), 105(A), 112(C)(1)(intro. para.) and (c), (E)(1) and (2)(intro. para.), and (G)(1), and 115(A) and (B); Adds R.S. 39:112(E)(4) and (H), 121.1, and 125.1; Repeals R.S. 39:112(E)(2)(b))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the applicability and effective date for the provisions of proposed law from July 1, 2023, to July 1, 2024.

The House Floor Amendments to the engrossed bill:

1. Limit the requirement for nonstate entities applying for capital outlay funding to provide documentation evidencing its ability to provide no less than 3% of the total requested amount of funding to be used exclusively for long term maintenance costs of the project to applications for construction of new projects.
2. Change the date of effectiveness for the requirements in proposed law relative to the disposal of projects which received funding through the Capital Outlay Act from July 1, 2023, to July 1, 2024.