
The original instrument was prepared by Curry Lann. The following digest, which does not constitute a part of the legislative instrument, was prepared by Emily Toler.

DIGEST

SB 318 Reengrossed

2024 Regular Session

Womack

Present law (R.S. 39:112(E)(4)) 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 for costs associated with the long-term maintenance of the project.

Proposed law instead requires a nonstate entity that receives funding for construction of a new project through the Capital Outlay Act to establish, fund, and maintain an escrow 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 nonstate entity.

Proposed law requires the nonstate entity to maintain the escrow account until either of the following occurs:

- (1) The project is unoccupied or disposed of by the nonstate entity or thirty years, whichever is later.
- (2) After the escrow account balance reaches the minimum balance requirement, all funds in the escrow account are expended on long-term major capital maintenance of the project.

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, including rules establishing criteria of what constitutes long-term major capital maintenance of a project.

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)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Adds provisions relative to the maintenance of the escrow account.
2. Provides for technical corrections.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Adds provision requiring the division of administration to promulgate rules establishing criteria of what constitutes long-term major capital maintenance of a project.