

2017 Regular Session

SENATE BILL NO. 232

BY SENATOR LAFLEUR

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

FUNDS/FUNDING. Provides relative to funds and state funds. (7/1/17)

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AN ACT

To amend and reenact R.S. 39:371, 372(G), and 451 and to enact R.S. 39:372(H) and R.S. 49:320.2, relative to funds and state funds in the state treasury; to provide relative to the Bond Security and Redemption Fund; to provide for monies received, collected, deposited, or withdrawn by state agencies; to provide for a procedure for the classification of state funds; to provide for the establishment of, deposit to and withdrawal from escrow funds in the state treasury; to provide relative to agency accounts in the state treasury; to provide relative to the composition and duties of the Cash Management Review Board; to provide for the duties of the Joint Legislative Committee in the Budget; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:371, 372(G), and 451 are hereby amended and reenacted and R.S. 39:372(H) is hereby enacted to read as follows:

§371. Cash management review board; creation

The cash management review board is hereby created to be composed of the state treasurer, the legislative auditor, ~~and~~ the commissioner of administration, the

1 chairman of the Senate Committee on Finance, and the chairman of the House
2 Committee on Appropriations, or their designees.

3 §372. Powers; policies; reports

4 * * *

5 G. The review board is hereby empowered to review all state agency
6 requests for the establishment of escrow funds in the state treasury, and if
7 warranted, to approve the requests in writing. The monthly reports required
8 by the provisions of R.S. 39:320.2(C) for all state agencies with escrow funds in
9 the state treasury shall be submitted to the review board, who shall compile the
10 agency reports into one report and forward it to the Joint Legislative
11 Committee on the Budget.

12 H. The legislative auditor shall review each state agency's compliance with
13 the review board's approved cash management policies and procedures. Any
14 noncompliance shall be reported to the Legislative Audit Advisory Council and to
15 the cash management review board.

16 * * *

17 §451. Bond Security and Redemption Fund

18 There is hereby established in the state treasury a special fund to be
19 designated and hereafter referred to as the bond security and redemption fund, ~~and~~
20 ~~subject to prior constitutional and statutory dedications and subject to any pledge,~~
21 ~~dedication or other contractual allocations heretofore made by the Constitution or~~
22 ~~statutes of the state of Louisiana to the holders of outstanding obligations of the state~~
23 ~~of Louisiana or any of the state agencies, boards or commissions, all revenues of the~~
24 ~~state from whatever source derived, except the amounts payable into the long range~~
25 ~~highway fund as provided in Section 23 of Article VI of the Louisiana Constitution,~~
26 ~~including without limiting the generality of the foregoing and all moneys, receipts~~
27 ~~and funds received from taxes, licenses, fees, and permits, or portions thereof~~
28 ~~heretofore or hereafter levied or imposed, including all bonus receipts collected from~~
29 ~~the sale of mineral leases, lease rentals, royalties and other miscellaneous revenues,~~

1 ~~receipts and surplus funds heretofore levied, imposed or dedicated or hereafter~~
2 ~~dedicated to or collected for the state's general fund shall hereafter be paid into the~~
3 ~~bond security and redemption fund established by this Chapter.~~ **All money received**
4 **by the state or by any state board, agency, or commission shall be deposited**
5 **immediately upon receipt in the state treasury, except as provided in Article**
6 **VII, Section 9 of the Louisiana Constitution, Article XII, Section 16 of the**
7 **Louisiana Constitution, and R.S. 49:308.**

8 Section 2. R.S. 49:320.2 is hereby enacted to read as follows:

9 **§320.2. Classification of revenues; escrow funds; reports of escrow funds and**
10 **agency accounts**

11 **A. The division of administration, office of statewide reporting and**
12 **accounting policy, shall develop a policy manual for the classification of state**
13 **revenues which shall define the revenues being classified, and the procedures**
14 **necessary to provide uniformity in the classification of revenues as statutory**
15 **dedications, fees and self-generated revenue, state general fund, interagency**
16 **transfers, or federal funds. The manual shall provide a description of all**
17 **monies that may be deposited into an escrow fund, including state monies,**
18 **monies required to be deposited into a dedicated account, or monies whose**
19 **ownership is in dispute. The manual shall also provide a description of all**
20 **monies that should not be deposited into an escrow account. The manual shall**
21 **contain policies relative to the creation of an agency account for the deposit of**
22 **fees and self-generated revenues. Prior to implementation of the manual, the**
23 **office of statewide reporting and accounting policy shall submit the proposed**
24 **manual to the Joint Legislative Committee on the Budget for review.**

25 **B. No state money in an escrow fund shall be withdrawn from the state**
26 **treasury by a state agency nor transferred from an escrow fund to a state**
27 **agency's account unless:**

28 **(1) There is a specific appropriation authorizing the withdrawal or**
29 **transfer of the monies.**

1 (2) There is no specific appropriation authorizing the withdrawal or
2 transfer of the monies and the commissioner of administration and the Joint
3 Legislative Committee on the Budget approve a budget adjustment if the
4 legislature is not in session.

5 (3) Any monies determined to have been paid by a nonstate individual
6 or entity to the state in error or in cases in which a refund of the amount paid
7 to the state is due, may be withdrawn from the escrow fund without a specific
8 appropriation and returned to the nonstate individual or entity.

9 C.(1) No agency shall establish an escrow fund unless the Cash
10 Management Review Board has authorized the establishment of the escrow
11 fund in writing and notice of the establishment of the escrow fund is given in
12 writing to the commissioner of administration and to the Joint Legislative
13 Committee on the Budget.

14 (2) The state agency which requested the establishment of the escrow
15 fund, and agencies which as of January 1, 2017, have established an escrow
16 fund, shall submit a monthly report to the state treasurer who shall compile the
17 agency reports into one report and submit it to the Cash Management Review
18 Board and the Joint Legislative Committee on the Budget setting forth the date
19 of the establishment of the fund, the beginning balance, any additional deposits
20 to the fund including the date and the amount of the deposit to the fund, the
21 date and the amount of any withdrawal from the fund, the balance in the fund
22 as of the date of the report, and any other information requested by the Cash
23 Management Review Board or the Joint Legislative Committee on the Budget.

24 (3) State agencies which as of January 1, 2017, have an agency account
25 established in the state treasury, shall give a quarterly report to the state
26 treasurer, regarding fees and self-generated revenues which have been
27 deposited or withdrawn from the account. The state treasurer shall compile the
28 agency reports into one report and shall submit the quarterly report to the Cash
29 Management Review Board and the Joint Legislative Committee on the Budget.

The report shall set forth:

(a) The beginning balance of fees and self-generated revenues in the agency account.

(b) The date and amount of deposits of fees and self-generated revenues to the agency account during the reporting period.

(c) The date and amount of withdrawals of fees and self-generated revenues from the agency account during the reporting period.

(d) The balance in the agency account as of the date of the report.

(e) Any other information requested by the Cash Management Review Board or the Joint Legislative Committee on the Budget.

Section 3. This Act shall become effective on July 1, 2017.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Martha Hess.

DIGEST

SB 232 Engrossed

2017 Regular Session

LaFleur

Present law provides for the Cash Management Review Board with the authority to approve the establishment of banking and checking accounts of state agencies. The members are the treasurer, the legislative auditor, and the commissioner of administration, or their designees.

Proposed law retains present law and adds the chairman of the Senate Committee on Finance and the chairman of the House Committee on Appropriations, or their designees, to the composition of the Cash Management Review Board.

Proposed law provides that the Cash Management Review Board shall review all state agency requests for the establishment of escrow funds in the state treasury, and if warranted, to approve the requests in writing.

Present law establishes the Bond Security and Redemption Fund in the state treasury as a special fund. Present law further provides that subject to prior constitutional and statutory dedications and subject to any pledge, dedication or other contractual allocations heretofore made to the holders of outstanding obligations of the state or any of the state agencies, boards or commissions, all revenues of the state from whatever source derived, except the amounts payable into the long range highway fund, including all moneys, receipts, and funds received from taxes, licenses, fees, and permits, all bonus receipts collected from the sale of mineral leases, lease rentals, royalties, and other miscellaneous revenues, receipts, and surplus funds shall be paid into the Bond Security and Redemption Fund.

Proposed law revises present law to make it consistent with the provisions of Article VII, Section 9 of the Louisiana Constitution which establishes the Bond Security and Redemption Fund and restates the exceptions to the requirement for deposits in the Bond Security and Redemption Fund.

Proposed law provides that the division of administration, office of statewide reporting and accounting policy, shall develop a policy manual for the classification of state revenues

which shall define the revenues being classified, and the procedures necessary to provide uniformity in the classification of revenues as statutory dedications, fees and self-generated revenue, state general fund, interagency transfers, or federal funds. Further provides that the manual shall provide a description of monies which may be or may not be deposited into an escrow fund. Requires the policy manual to contain policies for the creation of an agency account for the deposit of fees and self-generated revenues.

Proposed law further provides that prior to implementation of the manual, the office of statewide reporting and accounting policy shall submit the manual to the Joint Legislative Committee on the Budget for review.

Proposed law prohibits state money in an escrow fund to be withdrawn or transferred from an escrow account without an appropriation or if there is no appropriation, without a budget adjustment approved by the commissioner of administration and the Joint Legislative Committee on the Budget.

Proposed law authorizes monies paid to the state by a nonstate entity or party in error or in cases in which a refund of the amount paid to the state is due, may be withdrawn from the escrow fund without a specific appropriation and returned to the nonstate individual or entity.

Proposed law provides for the establishment of an escrow fund if the Cash Management Review Board has authorized the establishment of the escrow subfund in writing and notice of the creation of the escrow fund has been given in writing to the Joint Legislative Committee on the Budget.

Proposed law requires agencies which have an escrow account in the state treasury to report to the state treasurer monthly and that the state treasurer shall compile the agency reports into one report and submit it to the Cash Management Review Board. Further provides for the information to be stated in the report.

Proposed law provides that nonstate money may be returned to a nonstate individual or entity from an escrow fund, without a specific appropriation.

Proposed law provides for a quarterly report of agency accounts in the state treasury regarding fees and self-generated revenues which were deposited or withdrawn from the agency account. Further requires the state treasurer to compile the agency reports into one report to be submitted to the Cash Management Review Board and the Joint Legislative Committee on the Budget. Further sets forth the information to be included in the quarterly report.

Effective July 1, 2017.

(Amends R.S. 39:371, 372(G) and 451; adds R.S. 39:372(H) and R.S. 49:320.2)

Summary of Amendments Adopted by Senate

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

1. Provides that the Cash Management Review Board is to review all state agency requests for the establishment of escrow funds in the state treasury, and if warranted, to approve the requests in writing.
2. Relative to the Bond Security and Redemption Fund, deletes statutory language that is not in accord with the Louisiana Constitution, and restates exceptions to requirement for deposits in the Bond Security and Redemption Fund.

3. Requires policy manual to contain a description of monies which may be or may not be deposited into an escrow fund. Requires the policy manual to contain policies for the creation of an agency account for the deposit of fees and self-generated revenues.
4. Prohibits state money to be withdrawn or transferred from an escrow account without an appropriation or if there is no appropriation, without a budget adjustment approved by the commissioner of administration and the Joint Legislative Committee on the Budget.
5. Clarifies that nonstate money may be returned to a nonstate individual or entity from an escrow fund without a specific appropriation.
6. Requires agencies which have an escrow account in the state treasury to report to the state treasurer monthly rather than reporting to the Cash Management Review Board.
7. Provides for a quarterly report of agency accounts in the state treasury regarding fees and self-generated revenues which were deposited or withdrawn from the agency account. Requires the state treasurer to compile the agency reports into one report to be submitted to the Cash Management Review Board and the Joint Legislative Committee on the Budget.
8. Provides for the items to be included in the quarterly report of agency accounts containing fees and self-generated revenues.