

2017 Regular Session

HOUSE BILL NO. 189

BY REPRESENTATIVE DEVILLIER

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

CAPITAL OUTLAY: Provides relative to capital outlay reform

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AN ACT

To amend and reenact R.S. 39:112(C)(2)(b), (E)(1) and (2), and 122(A) and to enact R.S. 39:112(E)(3), relative to capital outlay; to provide with respect to the capital outlay process; to provide with respect to the resubmission of certain capital outlay budget requests; to provide for certain definitions; to provide for certain requirements for non-state entity projects; to provide for changes to the allocation of cash line of credit capacity each fiscal year; to provide with respect to the local match requirements for certain projects; to add certain requirements to the exception to the local match requirement for certain non-state entity projects; to repeal certain exceptions to the local match requirement; to provide relative to line of credit recommendations for projects; to require the approval of certain line of credit recommendations; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:112(C)(2)(b), (E)(1) and (2), and 122(A) are hereby amended and reenacted and R.S. 39:112(E)(3) is hereby enacted to read as follows:

§112. Capital outlay act

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1 (2) For purposes of this Section, the following terms shall have the following
2 meanings unless the context clearly indicates otherwise:

3 * * *

4 (b) "Economic development project" means a recruitment or retention
5 project undertaken or sponsored by the Department of Economic Development
6 which meets one of the following:

7 (i) Improvements on public or government-owned property for the purposes
8 of attracting or retaining a specific new or existing manufacturing or business
9 operation that benefits Louisiana:

10 ~~(ii) Facilities or improvements on public or government-owned property and~~
11 ~~that generate~~ generates new, permanent employment or which ~~help~~ helps retain
12 existing employment.

13 ~~(iii)~~(ii) Facilities or infrastructure improvements on public or government-
14 owned property necessary for the manufacturing plant or business to operate.

15 * * *

16 E.(1) General obligation bond funding of non-state projects shall be limited
17 to no more than twenty-five percent of the cash line of credit capacity for projects
18 in any fiscal year. The commissioner shall divide ten percent of the portion of cash
19 line of credit capacity granted to non-state projects in any fiscal year among the
20 parishes on a pro rata basis of population and number of homesteads in each parish
21 in proportion to population and the number of homesteads throughout the state. The
22 remaining fifteen percent of the cash line of credit capacity granted to non-state
23 projects in any fiscal year shall be prioritized to highway or bridge projects or
24 economic development projects as defined in (C)(2)(b) of this Section. Of the
25 portion of cash line of credit capacity each fiscal year granted to state projects, the
26 commissioner shall designate no less than fifty percent for highway and bridge
27 projects. Non-state projects are those projects not owned and operated by the state
28 except those projects determined by the commissioner of administration to be a

1 regional economic development initiative or regional health care facility operated in
2 cooperation with the state.

3 (2) ~~Non-state~~ Except as provided for in Paragraph (3) of this Subsection,
4 non-state entity projects shall require a match of not less than twenty-five percent of
5 the total ~~requested amount of funding~~ project cost except:

6 (a) A project deemed by the commissioner of administration to be an
7 emergency project.

8 (b) ~~A project of a non-state entity which has demonstrated its inability to~~
9 ~~provide a local match. The division of administration shall promulgate rules~~
10 ~~establishing a needs-based formula for determining the inability of a non-state entity~~
11 ~~to provide the required local match. However, such rules shall be approved by the~~
12 ~~House Committee on Appropriations, the House Committee on Ways and Means, the~~
13 ~~Senate Committee on Finance, and the Senate Committee on Revenue and Fiscal~~
14 ~~Affairs before they are promulgated.~~

15 (c) A project for a rural water system servicing less than one thousand
16 customers to extend or connect waterlines to other water systems.

17 (3) The commissioner may reduce the local match requirement for non-state
18 entity projects to not less than ten percent of the total project cost if the non-state
19 entity completes the following requirements:

20 (a) Executes a statement of sponsorship which shall include certification by
21 the non-state entity that all lands, easements, and rights-of-way for the project will
22 be acquired, that all permits to construct the project will be secured, and that all pre-
23 construction activities including planning, designing, and engineering for the project
24 will be completed, all without cost to the state. The non-state entity shall execute the
25 statement of sponsorship prior to requesting a reduction in the local match
26 requirement from the commissioner.

27 (b) Executes an agreement to assume all maintenance and operation costs for
28 the project and all future alterations to the project without cost to the state.

1 §122. Commencement of work

2 A. No work shall commence and no contract shall be entered into for any
3 project contained in the capital outlay act unless and until funds are available from
4 the cash sources indicated in the act or from the sale of bonds or from a line of credit
5 approved by the State Bond Commission, except contracts for Department of
6 Transportation and Development projects which are subject to the provisions of R.S.
7 48:251(D). ~~The Joint Legislative Committee on Capital Outlay~~ commissioner of
8 administration shall make recommendations to the ~~commissioner of administration~~
9 Joint Legislative Committee on Capital Outlay concerning the ~~non-state~~ state and
10 non-state entity projects to be granted lines of credit. The commissioner of
11 administration shall submit to the Joint Legislative Committee on Capital Outlay a
12 list of state and non-state entity projects ~~that will be submitted to the State Bond~~
13 ~~Commission~~ that the division of administration recommends for lines of credit a
14 ~~minimum of five days prior to the submission to the State Bond Commission~~ no less
15 than thirty days prior to the meeting date of the State Bond Commission in which the
16 lines of credit are to be considered. The Joint Legislative Committee on Capital
17 Outlay shall receive the list of recommendations from the division of administration
18 and shall have discretion to either approve the list or make changes to the list. The
19 committee shall make final recommendations and shall approve a list of projects
20 which shall be submitted to the State Bond Commission for consideration of lines
21 of credit. Only projects which received approval from the Joint Legislative
22 Committee on Capital Outlay shall be submitted to the State Bond Commission for
23 consideration of lines of credit.

24 * * *

25 Section 2. Notwithstanding the provisions of R.S. 39:101(A)(1)(b), projects included
26 within Section (1)(A) of Original House Bill No. 2 of the 2017 Regular Session of the
27 Legislature are hereby deemed to have timely resubmitted capital outlay applications for
28 Fiscal Year 2017-2018, and as such shall be eligible for cash and noncash lines of credit for
29 Fiscal Year 2017-2018.

1 Section 3. The provisions of Section 1 of this Act shall be applicable to the funding
2 of all non-state entity projects included in the capital outlay budget for fiscal years
3 commencing on and after July 1, 2017.

4 Section 4. This Act shall become effective on July 1, 2017.

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 189 Engrossed

2017 Regular Session

DeVillier

Abstract: Allocates the cash line of credit capacity designated for non-state projects and for state projects; reduces the exception to the local match requirement for non-state projects which demonstrate their inability to provide for their 25% local match; and requires the Joint Legislative Committee on Capital Outlay (JLCCO) to approve state and nonstate project line of credit recommendations before the division of administration submits the list to the State Bond Commission for funding.

Present law requires the governor to submit his capital outlay budget which implements the first year of the five-year program 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 authorizes capital outlay budget requests 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 (DED), the project is an emergency project recommended in writing by the commissioner of administration, the project is for a non-state 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 defines the term "economic development" as follows:

- (1) Improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La.
- (2) Facilities or improvements on public or government-owned property that generate new, permanent employment or which help retain existing employment.
- (3) Facilities or infrastructure improvements on public or government-owned property necessary for a manufacturing plant or business to operate.

Proposed law changes the definition of "economic development project" as a project which meets *one* of the following:

- (1) Improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La. and generates new, permanent employment or which helps retain existing employment.

- (2) Facilities or infrastructure improvements on public or government-owned property necessary for a manufacturing plant or business to operate.

Present law limits general obligation bond funding of non-state projects to no more than 25% of the cash line of credit capacity for projects in any fiscal year.

Proposed law retains the amount of cash line of credit capacity for non-state projects but requires the commissioner to divide 10% of the portion of cash line of credit granted to non-state on a pro rata basis of population and number of homesteads in each parish in proportion to population and the number of homesteads throughout the state. The remaining 15% of the cash line of credit capacity granted to non-state projects in any fiscal year shall be prioritized for highway, bridge, or economic development projects as defined in proposed law.

Proposed law requires that of the portion of cash line of credit capacity each fiscal year granted to state projects, the commissioner shall designate no less than 50% for highway and bridge projects.

Present law requires non-state 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.
- (2) Projects for which a non-state entity has demonstrated its inability to provide a local match. Proposed law requires the establishment of a needs-based formula for determining the inability of a non-state entity to provide the required local match.
- (3) Projects for rural water systems servicing less than 1,000 customers to extend or connect waterlines to other water systems.

Proposed law repeals the present law exception for non-state entity projects for which the non-state entity had demonstrated its inability to provide a local match and changes the basis for the local match from not less than 25% of the *total requested funding amount* to not less than 25% of the *total project cost*.

Proposed law authorizes the commissioner to reduce the local match requirement for non-state entity projects to not less than 10% of the total project cost if the non-state entity meets the following requirements:

- (1) Executes a statement of sponsorship which includes certification that all lands, easements, and rights-of-way will be acquired, that all permits to construct the project will be secured, and that all pre-construction activities such as planning, designing, and engineering will be completed, all without cost to the state.
- (2) The non-state entity executes an agreement to assume all maintenance and operation costs for the project and all future alterations to the project without cost to the state.

Proposed law requires the non-state entity to execute the statement of sponsorship prior to requesting a reduction in the local match requirement from the commissioner.

Present law requires the JLCCO to make recommendations to the commissioner of administration concerning non-state entity projects to be granted lines of credit. Further requires the commissioner to submit the list of projects to be recommended for lines of credit to the JLCCO a minimum of five days prior to submission of the list to the State Bond Commission (SBC).

Proposed law changes present law by requiring the commissioner to make recommendations to the JLCCO concerning state and non-state entity projects to be recommended for lines of

credit. Further requires the commissioner to submit the list of recommendations to the JLCCO no less than 30 days prior to the meeting date of the SBC in which the lines of credit are to be considered for funding.

Proposed law requires the JLCCO to make final recommendations by either approving the list of recommendations or making changes to the list. Only projects which received approval from the JLCCO can be submitted to the SBC for consideration of funding.

Proposed law adds a provision exempting projects included within Section (1)(A) of Original House Bill No. 2 of the 2017 R.S. of the Legislature from the requirements of present law relative to requiring entities to re-submit and update capital outlay applications. Further deems these projects to have timely resubmitted capital outlay applications for Fiscal Year 2017-2018, and as such authorizes them to be eligible for cash and noncash lines of credit for Fiscal Year 2017-2018.

Applicable to the funding of all non-state entity projects included in the capital outlay budget for fiscal years commencing on and after July 1, 2017.

Effective July 1, 2017.

(Amends R.S. 39:112(C)(2)(b), (E)(1) and (2), and 122(A); Adds R.S. 39:112(E)(3))

Summary of Amendments Adopted by House

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

1. Change the definition of "economic development project".
2. Delete the reduction in proposed law of the amount of general obligation bond (GOB) funding of non-state projects each year.
3. Change the division of the amount of cash capacity of GOB funding reserved for non-state entities by requiring 10% of the amount of GOB funding to be divided on a pro rata basis of population and number of homesteads and the remaining 15% to be prioritized for highway, bridge, or economic development projects.
4. Change the local match requirement for non-state projects from not less than 25% of the *total requested amount* of funding to not less than 25% of the *total project cost*.
5. Authorize the 25% local match requirement to be reduced to 10% if certain requirements are met.
6. Add an exemption for projects in Section (1)(A) of House Bill No. 2 Original version of this 2017 R.S. of the Legislature from certain requirements in present law regarding the re-submission of project applications.