

RÉSUMÉ DIGEST

HB 598

2017 Regular Session

Abramson

Present law establishes a prioritization process for construction of highway and bridge projects utilized to develop a Highway Priority Program that accomplishes many goals including bringing the state highway system into a good state of repair and optimizes the usage and efficiency of existing transportation facilities.

Proposed law would have retained present law but added to the goals of the prioritization process the development of a program to ensure that the taxes levied on motor fuels were used by the Dept. of Transportation and Development in the most cost-effective manner and that the state was maximizing state and federal funding on costs related to the actual construction and maintenance of highway and bridge projects and minimizing the use of these funds on administrative costs for the Dept. of Transportation and Development.

Proposed law would have specified that in cases where Priority A and B mega-projects would be prioritized equally in accordance with proposed law and present law, consideration would have been given to mega-projects for which funding would be made available by sources other than the state or federal government.

Present law requires, beginning in FY 2017-2018, the Dept. of Transportation and Development to provide the legislature and public with a program that lists projects to be constructed in the ensuing fiscal year in an order of priority that is determined after projects are analyzed utilizing a process based on an objective analysis that considers the following factors relative to the cost of the project and anticipated revenues to be appropriated by the legislature:

- (1) The condition of the roads, streets, and structures making up the state highway system and the urgency of the improvements considering their order of needs.
- (2) The type and volume of traffic on a roadway, highway, or bridge.
- (3) The crash records for a roadway, highway, or bridge.
- (4) The technical difficulties in the preparation of plans and the procurement of rights-of-way for a roadway, highway, or bridge.
- (5) Whether an unforeseeable emergency created an immediate need for improvement or reconstruction.
- (6) Whether capacity improvements are warranted due to population or traffic volume increases in a geographic area.
- (7) Whether or not the highway or bridge is or will be on an evacuation route utilized to evacuate large populations due to catastrophic events.
- (8) Whether the improvement to or addition of a highway or bridge will benefit the economic development potential of the state.

Proposed law would have retained present law but changed the FY from 2017-2018 to FY 2018-2019 and added a factor for whether the highway or bridge project would support the needs of the local and regional authorities with responsibility for transportation planning to ensure that there was an equitable distribution among and between the different regions of the state over a three-year period.

Proposed law would have required, in addition to the requirements of present law, the Dept. of Transportation and Development to establish a multi-year time line on the projects to be funded through the program each year including an indication of the source of monies from which project costs would be funded.

Proposed law would have required Dept. of Transportation and Development to submit performance progress reports including the performance objectives, indicators, and standards used by the department to determine the efficiency and effectiveness of the priority of projects in the program. Further would have required the report be submitted and maintained through the electronic performance database maintained and used by the division

of administration to track state agency performance standards and on the Dept. of Transportation and Development's webpage.

Proposed law would have required, beginning with the program for FY 2018-2019 and for each program thereafter, the Dept. of Transportation and Development apply the prioritization factors provided for in present law and begin to prioritize all projects in the program which were at the stage of project delivery where sources of funding were being identified.

Proposed law would have further required, beginning with the program for FY 2018-2019, the department to prioritize all projects included in the program into two separate lists. Proposed law would have required the first list include a three-year plan for all projects in the program where funding was programmed based on the anticipated and projected revenues available for design or scheduled to be bid for construction in that fiscal year. Proposed law would have required the Dept. of Transportation and Development publish the list with notations regarding whether the scheduled letting date for each project was on-schedule, ahead of schedule, or delayed.

Proposed law would have required the department include a detailed written explanation of any delay notated on the published list required by proposed law.

Proposed law would have required that as projects were completed from the first list, they were deleted and replaced with projects from the second list beginning with the highest level of priority. Proposed law further would have required the Dept. of Transportation and Development to devise a detailed schedule of project delivery for all projects on this list which should have included at a minimum, the stage of project delivery, the scheduled letting date, and estimated completion date for each phase of project delivery, associated costs, and funding sources for each phase.

Proposed law would have required the second list to include a three-year plan for all projects in the program that could be funded if additional revenues became available. Proposed law would have specified that each year, as projects move from this list to the first list, new projects must be added to the second list from prioritized projects in the program starting with the highest level of priority.

Proposed law would have required the district administrator of each of the nine Dept. of Transportation and Development districts to determine the prioritization of the pavement preservation projects in their respective district.

Proposed law would have required, beginning July 1, 2019, the legislative auditor annually audit the avails of the taxes levied on gasoline, motor fuels, and special fuels, hereinafter "motor fuel taxes", to ensure compliance with the laws and regulations and adequacy of internal controls to ensure all of the following:

- (1) That the avails of the motor fuels tax were used in accordance with their restricted purposes as set forth in the state constitution.
- (2) That the avails of the motor fuels tax were spent in appropriate categories as outlined in proposed law.
- (3) That the avails of the motor fuels tax were spent on projects in compliance with the priorities set forth in the applicable programs for prioritizing capital projects.
- (4) That the avails of the motor fuels tax were spent in an efficient and effective manner showing improvement in program operations through performance measures such as pavement conditions, bridge conditions, safety improvements, implementation of the La. Statewide Transportation Plan, and other outcome measures as determined by the auditor.

Proposed law would have required the Dept. of Transportation and Development annually submit a report to the legislature and the legislative auditor which would have contained detailed information regarding the expenditure breakdown of the avails of the motor fuel taxes utilized by the department in accordance with the restricted purposes as set forth in the state constitution and the methodology and outcomes of the Dept. of Transportation and Development's prioritization of projects, and all source documentation necessary to review

any metrics determined by the legislative auditor. Proposed law would have provided for a detailed breakdown of additional information the report was required to include.

Proposed law would have required the auditor to annually certify that the audit of the avails of the motor fuels tax were in substantial compliance with proposed law and LA Const. Article VII, §27. Proposed law would have specified that if the legislative auditor found a lack of substantial compliance with any three consecutive audits, then the Legislative Audit Advisory Council was required to make recommendations of appropriate action to the legislature.

Present law provides for annual public hearings on a proposed construction program presented by the Dept. of Transportation and Development to and conducted by the Joint Highway Priority Construction Committee composed of all members of the House and Senate committees on transportation, highways and public works and each legislator representing parishes within the respective highway district and for submission of a report based on testimony received to be sent to the department.

Proposed law would have changed present law beginning Feb. 1, 2018, and Feb. first each year thereafter to require the Dept. of Transportation and Development to present the proposed construction program and list of projects together with the summary of project requests from public hearings conducted under present law. Proposed law would have required the Joint Committee on Transportation, Highways and Public Works to hold a public hearing, and authorized the joint committee to delete any project it determined did not have priority in accordance with the factors in present law (R.S. 48:229.1) and add or substitute any projects to the proposed construction program for projects which have been removed. Proposed law would have required the joint committee to communicate the approved proposed construction program to the Dept. of Transportation and Development.

Present law requires the department create the final construction program for the coming fiscal year for submission to the legislature.

Proposed law would have required the final construction program for the coming fiscal year for submission to the legislature be approved and authorized the legislature to delete any projects determined to not be in proper order of priority beginning March 1, 2018 and not later than March first of each year thereafter.

Proposed law would have changed present law to provide that the Joint Highway Priority Construction Committee included legislators representing the parishes within the respective highway district solely for purposes of attending public hearings in each highway district.

Present law prohibits the Dept. of Transportation and Development from undertaking any construction project other than those included in the priority listing for that fiscal year regardless of the source of funds for the project except projects undertaken and financed out of the secretary's emergency fund and projects involving use of matching funds to meet federal requirements in order to receive federal aid funds.

Proposed law would have removed the exception applicable to projects involving use of matching funds to meet federal requirements in order to receive federal aid funds. Proposed law would have added provisions that required the Dept. of Transportation and Development to provide notification by email, together with a brief description of the need for and purpose of any project that changes the flow of traffic by closing an existing interchange to each legislator in whose district the project was proposed prior to undertaking any of these projects.

(Proposed to amend R.S. 48:229.1(B) and (C), 231(A)(5) and (6) and (B), and 232; proposed to add R.S. 48:229.1(A)(9), (10), and (11), and 229.2)

VETO MESSAGE: "Please be advised that I have vetoed House Bill 598 of the 2017 Regular Session. As originally drafted, House Bill 598 was part of a transportation package that included a transportation funding bill. It further would have provided for additional transparency and accountability from the Department of Transportation and Development. Providing for additional funds to meet our critical infrastructure needs while at the same time providing for better accountability for the use of those funds has been, and continues to be, a critical priority of my administration.

However, this bill, as amended, does not meet those standards. The amendments to this bill allow for the legislature to make changes to the Highway Priority Program by inserting or substituting projects. This would inappropriately inject politics into a process that should be based on data and needs. This would erode public trust and confidence in the Highway Priority Program. When combined with the failure of House Bill 632 to become law, it is clear that House Bill 598, in its final form, would further prevent the Department of Transportation and Development from meeting the infrastructure needs of the state."