

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 32** HLS 182ES 159

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 30, 2018	12:26 PM	Author: MAGEE
Dept./Agy.: Statewide		Analyst: Alan M. Boxberger
Subject: Authorizes securitization of Deepwater Horizon income		

BONDS OR INCREASE SG EX See Note Page 1 of 2
Authorizes the securitization of the economic damage portion of the Deepwater Horizon income stream (Item #30)

Proposed law creates the Louisiana Roads and Infrastructure Corporation as a special purpose, public corporate entity, which is an independent instrumentality of the state and domiciled in East Baton Rouge Parish; creates a board consisting of the governor, the state treasurer, the attorney general, the president of the Senate and Speaker of the House of Representatives (or their designees), and seven members appointed by the governor (one from each of the seven congressional districts); provides for senate confirmation, terms of service, experience requirements and per diems; provides for annual election of leadership; provides for quorum requirements; provides that the corporation's purpose is to carry out the financing, purchasing, owning and managing of the state's allocation of the Deepwater Horizon economic damages revenue assets; provides that staff of the Department of Treasury through cooperative endeavor agreement (CEA) may serve as staff to the corporation under supervision of the treasurer; provides that the attorney general shall serve as counsel to the corporation pursuant to a CEA and may employ or retain other attorneys it may deem necessary; provides for audit requirements of the corporation; provides for hiring authority for the corporation; provides for certain tax exemptions of the corporation; prohibits filing for
See Summary Continued on Page 2

EXPENDITURES	2018-19	2019-20	2020-21	2021-22	2022-23	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total						
REVENUES	2018-19	2019-20	2020-21	2021-22	2022-23	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total						

EXPENDITURE EXPLANATION

There will be an indeterminable, but significant, increase in expenditures if due to the creation of the Louisiana Roads and Infrastructure Corporation the Corporation takes action on behalf of the state to securitize up to 100% of the Deepwater Horizon economic damage settlement. Appointed members of the Corporation will be paid a per diem in the amount not to exceed that authorized for members of the Legislature along with reimbursement for travel expenses for an unknown number of meetings, but no less than once annually. Staff of the Department of the Treasury, including the State Bond Commission (SBC), may serve as staff to the Corporation and the Attorney General (AG) may serve as counsel. Those offices are permitted to enter into Cooperative Endeavor Agreements with the Corporation to recoup necessary staff costs, which would be coded as SGR expenditures. However, there will be additional costs to the corporation associated with the provisions allowing for retaining of other attorneys, consultants, agents, financial advisers and accountants as the Corporation deems necessary. Such operating and CEA costs cannot be determined and will depend on action taken and decisions made by the corporation regarding the amount and timing of bond issuances and the degree to which the corporation relies on staff of the Treasury, SBC and AG.

In addition, there are attendant costs related to the issuance of bonds including bond attorneys, underwriters, underwriters' discount, rating experience, bond insurance, etc. as well as post-issuance compliance (arbitrage calculations, continuing disclosure, etc.). Other

See Expenditure Explanation Continued on Page 2

REVENUE EXPLANATION

The State Bond Commission reports that revenue from securitization of the Deepwater Horizon Economic Damages collections is not readily determinable, as those will be determined by action taken by the corporation regarding the amount and timing of bond issuances, and market conditions at the time of such issuances. All proceeds and monies received by the state, whether received as economic damage revenue assets or sold as the residual interests, shall be deposited into the Deepwater Horizon Economic Damages Collection Fund. The total settlement agreement arising from the 2010 Deepwater Horizon oil spill will provide funds in excess of \$6.8 billion to Louisiana over a period of 18 years. The settlement amount is made up of Natural Resources Damages Claims (\$5 billion), Clean Water Act Penalties (\$787 M), and state economic damage claims (\$1 B). For the economic damages portion of the settlement agreement, the state has already received a one-time, upfront payment of \$200 M in FY 16. BP is scheduled to make annual payments of \$53.3 M for 15 years beginning in FY 19 and this is the portion that could be securitized under the provisions of proposed law.

Proposed law will shift deposits out of the Deepwater Horizon Economic Damages Collection Fund out of the Budget Stabilization Fund (45% = \$24 M), the Medicaid Trust Fund for the Elderly (45% = \$24 M) and the Health Trust Fund (10% = \$5.3 M). Economic damage proceeds deposited into the Deepwater Horizon Economic Damages Collection Fund, as well as any proceeds related to the securitization thereof, shall be deposited into the Construction Subfund within the Transportation Trust Fund to be used for capital costs of transportation infrastructure projects.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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Staff Director



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CONTINUED EXPLANATION from page one:
Summary Continued from Page 1

bankruptcy while bonds are outstanding; provides for ethics, open meetings, public records and bond validation procedures law; authorizes the State Bond Commission to sell and convey a portion of the state allocation to the corporation, up to 100% thereof; provides that the corporation board may provide for the issuance of bonds in order to provide current assets and funds for the Deepwater Horizon Economic Damages Collection Fund; provides that such bonds shall be payable solely from funds of the corporation from specified sources; provides that bonds issued by the corporations shall not be deemed to constitute a debt or obligation of the state or a pledge of the faith and credit of the state; provides for security of payment of bonds through trust indentures; provides for ancillary contracts and derivative instruments; provides that the bonds shall be exempt from taxation by the state and by any other political subdivision of the state; provides that all proceeds and monies received by the state shall be deposited in and credited to the Deepwater Horizon Economic Damages Collection Fund; provides that an amount sufficient to fulfill the state match requirement of Senate Bill 129 of the 2018 Regular Session shall be held in the state treasury until appropriated by the legislature, and make the remaining balance of annual proceeds available for securitization of potential bond instruments by the Corporation (the proceeds of which shall be deposited into the Construction Subfund of the Transportation Trust Fund); provides that of the bond proceeds deposited into the Construction Subfund of the Transportation Trust Fund, \$100 M shall be applied to the Louisiana Highway 1 Improvement Project from Golden Meadow to Leeville in southern Lafourche Parish; and provides for effective date.

Expenditure Explanation Continued from Page 1

ongoing expenditures will include reporting, budget compilation, and payment of operating expenses, etc. for the corporation. The SBC cannot yet estimate bond issuance costs as the number, amount and timing of bond issuances will be determined by action of the corporation and subject to approval of the SBC and the Joint Legislative Committee on the Budget.

The proceeds of any bond sales and cash proceeds will be deposited into the Deepwater Horizon Economic Damages Collection Fund and be restricted to the expenditure purposes of that fund as provided in proposed law. Proposed law will redirect revenues generated by securitization of economic damages proceeds, including any residual interests, into the Construction Subfund within the Transportation Trust Fund. According to present constitution (Article VII, §27(B)(2), monies in the Construction Subfund shall be appropriated and dedicated solely for the direct costs associated with actual project delivery, construction and maintenance of transportation and capital transit infrastructure projects of the state and local government, and prohibits use of said funding for the payment of employee wages, related benefits or retirement benefits. The Deepwater Horizon Economic Damages Collection Fund shall be null, void, and of no effect at the later of: the date of the conclusion of the Deepwater litigation, July 1, 2024, or two years after all outstanding bonds or other indebtedness issues pursuant to proposed law are retired and the Corporation no longer has any bonds or indebtedness outstanding.

Proposed law further provides that \$100 M of the bond proceeds are to be used for the Louisiana Highway 1 Improvement Project from Golden Meadow to Leeville in southern Lafourche Parish. This amount will not be sufficient to complete the LA 1 Improvement Project, which is estimated to cost approximately \$360 M, but will provide for significant progress.

For informational purposes, under present law, monies deposited into the Deepwater Horizon Economic Damages Collection Fund are used for: 45% of the damages proceeds go to the Budget Stabilization Fund; 45% of the damages proceeds go to the Medicaid Trust Fund for the Elderly until an amount not to exceed \$700 million has been deposited into such fund; and 10% of the damages proceeds go to the Health Trust Fund until an amount to exceed \$30 million has been deposited into this fund. After the BSRF requirements have been met, the state treasurer shall credit the monies into the fund. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in the fund. The state treasurer shall invest monies in the fund and interest earnings shall be credited to the fund. The interest earned on the investment of monies in the fund shall be made to the Board of Regents to be equitably allocated to public postsecondary education institutions in the state.

NOTE: The \$53.3 M anticipated payment related to economic damages from the Deepwater Horizons event is currently recognized in the REC estimate. Anticipated deposits into the Medicaid Trust Fund for the Elderly and Health Trust Fund are incorporated into the recommended appropriation in HB 1 of the 2018 Second Extraordinary Session and proposed law will require eliminating appropriations from those funds in an amount equal to existing projected deposits from prospective Deepwater Horizon Economic Damage proceeds for FY 19. This reallocation will result in a loss of federal match capacity within LDH. For illustrative purposes, assuming the current recommended appropriation balance were eligible for the standard FMAP rate, removing the appropriation would result in a potential LDH total reduction of approximately \$73.8 M (\$20.75 M Medicaid Trust Fund for the Elderly, \$5.33 M Health Trust Fund and \$47.75 Federal).

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[] 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

House
[] 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
[] 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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