

2019 Regular Session

HOUSE BILL NO. 496

BY REPRESENTATIVES ABRAMSON, BOURRIAQUE, DAVIS, DEVILLIER,
HORTON, IVEY, JAY MORRIS, JIM MORRIS, STEFANSKI, AND STOKES

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

CAPITAL OUTLAY: Establishes the Unclaimed Property Revolving Loan Commission to provide financial assistance to local governments and political subdivisions for certain capital infrastructure projects

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AN ACT

To enact Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:462.1 through 462.5, and 1367(E)(2)(b)(vii), relative to the capital outlay program; to provide with respect to the funding and financing of certain capital outlay projects; to provide a funding source for certain capital outlay expenditures by local governments; to establish the Unclaimed Property Revolving Loan Commission; to provide for a board of directors to govern the commission; to provide for membership, duties, and authority of the board; to provide for the adoption of bylaws, rules, and regulations by the board; to provide for the capitalization, administration, investment, and disposition of monies received by the commission; to authorize the commission to incur debt and issue bonds, notes, or other evidences of indebtedness and to guarantee the debt of other certain entities; to authorize loans from the commission to nonstate public entities for certain eligible infrastructure projects; to provide procedures for local governments to enter into such indebtedness and provide for repayment; to exempt interest on such indebtedness from taxation; to provide with respect to loan forgiveness; to provide for effectiveness; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 39:462.1 through 462.5, and 1367(E)(2)(b)(vii) are hereby
4 enacted to read as follows:

5 CHAPTER 3-C. UNCLAIMED PROPERTY REVOLVING LOAN COMMISSION

6 §462.1. Unclaimed Property Revolving Loan Commission; purposes

7 A. The legislature finds that:

8 (1) State government has assisted in funding many local capital outlay
9 projects that are necessary to provide local facilities, but the result of this state
10 funding has been to either reduce the amount of funding available for state programs
11 and services or ignore the need for assistance to local governments.

12 (2) Even with established state and federal government programs to assist
13 local governments with needed and necessary funding for infrastructure projects,
14 including those for clean water and sewerage projects, local governments encounter
15 financial challenges in meeting match funding requirements and other required local
16 contributions required by the existing state capital outlay program and other
17 infrastructure programs.

18 (3) The most effective way of accomplishing the goal of providing for local
19 infrastructure project financing and for preservation of the state fisc over the long
20 term is to establish a low interest rate revolving loan fund to be available for local
21 infrastructure projects to assist participating borrowers in meeting required match
22 requirements and other required local contributions, and provide an alternative
23 means to fund appropriate local infrastructure projects that would otherwise compete
24 with scarce state funding for state projects.

25 B. In order to continue to provide match funds and other required local
26 contributions to local governments for the planning, design, construction, and
27 maintenance connected with needed infrastructure projects, it is the purpose of this
28 Chapter to do the following:

1 (1) Provide for the establishment and administration of a commission to
2 make loans from a revolving loan fund and to provide other assistance to local
3 governments for use in meeting match funding requirements or other required local
4 contributions in carrying out or proposing to carry out eligible infrastructure projects,
5 and enter into cooperative endeavor agreements and interstate compacts as may be
6 necessary and proper to fulfill the purposes of this Chapter.

7 (2) Provide for receipt, administration, and use by the commission of federal
8 funds contributed to it pursuant to federal law, rule, or regulation, funds appropriated
9 or otherwise provided by the state or any local governing authority, and funds
10 derived or contributed from, or otherwise provided by, any other source.

11 (3) Authorize the commission to establish and administer a revolving loan
12 fund for eligible infrastructure projects and to use the sums on deposit in, credited
13 to, or otherwise received by the commission for the purposes provided in this
14 Chapter.

15 §462.2. Unclaimed Property Revolving Loan Commission; definitions

16 The following terms as used in this Chapter shall have the following
17 meanings:

18 (1) "Approved infrastructure program" means a program through which an
19 eligible infrastructure project may be funded including but not limited to the
20 following programs:

21 (a) State Capital Outlay Budget Program as provided in R.S. 39:101 et seq.,
22 administered by the Division of Administration, office of facility planning and
23 control.

24 (b) Clean Water State Revolving Fund established pursuant to R.S. 30:2301
25 et seq.

26 (c) Drinking Water Revolving Loan Fund established pursuant to R.S.
27 40:2821 et seq.

28 (2) "Board" means the board of directors of the Unclaimed Property
29 Revolving Loan Commission.

1 (3) "Certifying department" means a state department or agency with
2 authority to administer and approve an eligible infrastructure project in accordance
3 with laws and regulations governing the respective approved infrastructure program.

4 (4) "Eligible infrastructure project" or "project" means a plan or proposal
5 approved by the respective certifying department with legal authority to administer
6 an approved infrastructure program, which would require or use a local match or
7 other required local contribution, or require funding for eligible infrastructure project
8 costs that can be provided by the commission.

9 (5) "Loan" means the loan from the commission to the local government
10 evidenced by a bond, note, or other evidence as provided in this Chapter.

11 (6) "Local" or "local government" means a public entity as defined in Article
12 VI, Section 44 of the Constitution of Louisiana.

13 (7) "Revolving loan fund" means a fund established in law to be used to
14 make loans through the commission with funding from unclaimed property.

15 §462.3. Unclaimed Property Revolving Loan Commission; structure; powers; duties

16 A. There is hereby established within the Department of the Treasury the
17 Unclaimed Property Revolving Loan Commission, hereinafter referred to as
18 "commission", which shall be allocated to the Department of the Treasury in
19 accordance with the provisions of Article IV, Section 1 and Article XIV, Section 6
20 of the Constitution of Louisiana.

21 B.(1) The commission shall be governed by a board of directors composed
22 of the following members:

23 (a) The state treasurer, or his designee.

24 (b) One member appointed by the state treasurer who possesses no less than
25 five years of business or commercial lending experience.

26 (c) One member appointed by the governor who shall have experience with
27 any of the following:

28 (i) The Clean Water State Revolving Loan Fund administered by the
29 Department of Environmental Quality.

1 (ii) The Drinking Water Revolving Loan Fund administered by the office of
2 public health.

3 (iii) The state capital outlay budget process administered by the Division of
4 Administration, office of facility planning and control.

5 (d) One member appointed by the speaker of the House of Representatives
6 who possesses no less than five years of business or commercial lending experience.

7 (e) One member appointed by the president of the Senate who possesses no
8 less than five years of business or commercial lending experience.

9 (f) One member appointed by the state treasurer from a list of three nominees
10 submitted by the Louisiana Municipal Association who possesses no less than five
11 years of business or commercial lending experience.

12 (g) One member appointed by the state treasurer from a list of three
13 nominees submitted by the Louisiana Police Jury Association who possesses no less
14 than five years of business or commercial lending experience.

15 (2) The board shall adopt bylaws for its own internal organization and
16 governance, including the election of officers and conduct of meetings in accordance
17 with the Open Meetings Law.

18 (3) The board shall promulgate rules and regulations, in accordance with the
19 Administrative Procedure Act, for the appointment of committees, for consideration
20 and approval or rejection of applications for loans, and for the administration of the
21 commission and fulfillment of any and all responsibilities and duties and exercise of
22 any rights and authority of the commission as provided in this Chapter.

23 (4) The board shall exercise its duties and responsibilities and grant or deny
24 approval to applicants.

25 C. The board shall have authority and responsibility for review and approval
26 or denial of applications for loans or other assistance requested by a local
27 government for an eligible infrastructure project. No loan or other assistance shall
28 be made without the prior approval of the proposed project by the respective
29 certifying department. Each respective certifying department shall retain its

1 discretion, authority, and control over all aspects of the review of any and all
2 construction, engineering, and related technical aspects of a project in accordance
3 with the rules and regulations of the respective approved infrastructure program.

4 D. The commission shall have the powers necessary or convenient to carry
5 out its mission and purpose described in this Chapter, including the following:

6 (1) To sue and be sued.

7 (2) To adopt an official seal and alter the same at its pleasure.

8 (3) To appoint an executive director to administer the affairs of the
9 commission, who shall be appointed and serve at the pleasure of the board.

10 (4) To make and execute contracts and other agreements, instruments, and
11 documents necessary or convenient for the exercise of its powers and functions under
12 this Chapter, with any federal or state government agency, local government, or
13 other public or private entity, and to act in furtherance of its interests therein,
14 including but not limited to credit enhancement devices, guarantees, pledges, interest
15 rate swap agreements, contracts, and agreements with federal agencies, local
16 government entities, public trusts, departments, boards, agencies, commissions of the
17 state, and other parties to the extent necessary or convenient for the implementation
18 of the purpose of the commission as provided for in this Chapter.

19 (5) To receive and administer grants from the federal government or its
20 agencies allotted to the state for the capitalization of the bank, any fund administered
21 by the commission, state funds when required or otherwise made available, or any
22 other funds or property loaned, granted, donated or otherwise provided for the
23 purposes established in this Chapter, subject to compliance with the terms of a
24 federal or state grant, if any, and other applicable state or federal law, rule, or
25 regulation.

26 (6) To make loans from a revolving loan fund, federal funds, or funds on
27 deposit in, credited to, or to be received by the commission, and interest on the loans
28 shall be at or below market interest rates for a period not to exceed twenty years from
29 the completion of the construction of the project.

1 (7) To provide the following assistance regarding local government projects:

2 (a) Offer and make or enter into loan guarantees, letters of credit, grants, or
3 other forms of assistance.

4 (b) Provide payments to reduce interest on loans.

5 (c) Make bond interest subsidies for bonds.

6 (d) Provide bond guarantees.

7 (e) Assist with respect to the non-federal share of project costs.

8 (f) Finance the cost and the preparation of project plans, specifications, and
9 estimates for construction.

10 (g) Improve credit market access by guaranteeing, arranging, or purchasing
11 bond insurance or other credit enhancement devices for debt obligations issued for
12 an eligible infrastructure project.

13 (8) To finance any programs which the federal government authorizes by a
14 grant made for purposes of the revolving loan fund or made for purposes for which
15 the revolving loan fund is authorized.

16 (9) To provide for any other expenditure consistent with a federal grant
17 program and state law.

18 (10) To establish, by rule, a schedule of reasonable fees and charges to pay
19 the costs of administering the commission.

20 E. Money needed for the operation of the commission or on deposit in the
21 revolving loan fund shall be invested by the state treasurer as provided by law,
22 except as may be limited by federal law or the terms and conditions of any grant
23 related to money deposited in the revolving loan fund. All interest earned on
24 investments shall be credited to the revolving loan fund.

25 §462.4. Revolving loan fund; loans for eligible infrastructure projects; authorizing
26 and issuing debt; security; interest rates; tax exemption

27 A.(1) Notwithstanding any provision of law to the contrary, and in addition
28 to the authority to lend or borrow money or incur or guarantee indebtedness provided
29 by any other provisions of law, sums on deposit in and credited to the commission

1 may be loaned from the revolving loan fund to local governments for use in
2 connection with eligible infrastructure projects. However, this Section shall not be
3 deemed to be the exclusive authority under which a local government may otherwise
4 borrow money or incur indebtedness from other sources.

5 (2) Local governments may enter into loans from the revolving loan fund in
6 accordance with this Section, but no such loan shall be made nor debt evidencing the
7 loan shall be issued or incurred without the approval of the board, followed by
8 written approval of the State Bond Commission.

9 B. All bonds, notes, or other evidences of indebtedness of any local
10 government issued to represent a loan shall be authorized and issued pursuant to a
11 resolution or ordinance of the governing authority of that entity, hereinafter referred
12 to collectively as "resolution". The resolution shall prescribe the form and details
13 thereof, including the terms, security for, manner of execution, repayment schedule,
14 and redemption features thereof and the resolution may provide that an officer of that
15 entity may execute in connection with such obligation any related contract, including
16 but not limited to a credit enhancement device, indenture of trust, loan agreement,
17 pledge agreement, or other agreement or contract needed to accomplish the purposes
18 for which the evidence of indebtedness is given, in substantially the form referenced
19 in the resolution, but which final executed credit enhancement device, indenture of
20 trust, loan agreement, pledge, or other contract or agreement may contain such
21 changes, additions and deletions as shall in the sole opinion of the executing officer
22 be appropriate under the circumstances. The resolution shall include a statement as
23 to the maximum principal amount of any such obligation, the maximum interest rate
24 to be incurred or borne by said obligation or guaranteed by said obligation, the
25 maximum redemption premium, if any, and the maximum term in years for such
26 obligation, guarantee, or pledge.

27 C. Notwithstanding any other provision of law to the contrary, a local
28 government, upon entering into a loan as provided in this Chapter, may dedicate and
29 pledge a portion of any revenues it has available to be pledged and dedicated,

1 including but not limited to revenues from the general revenue fund, sales taxes,
2 sewer user fees, assessments, parcel fees, or ad valorem property taxes, for a
3 sufficient term to repay the principal of, interest on, and any premium, administrative
4 fee or other fee or cost incurred, in connection with the loan.

5 D. Any evidence of indebtedness authorized pursuant to this Chapter shall
6 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the
7 resolution authorizing and providing for the issuance thereof. Any such rate or rates
8 of interest may be at fixed, variable, or adjustable rates.

9 E. The general laws of the state governing fully registered securities of
10 public entities shall be applicable to the bonds, notes, or other evidences of
11 indebtedness issued pursuant to this Section.

12 F. A resolution authorizing a loan pursuant to this Section shall be published
13 once in the official journal or a newspaper of general circulation in the parish or local
14 government entity incurring the loan. It shall not be necessary to publish exhibits to
15 the resolution, but the exhibits shall be made available for public inspection at the
16 offices of the governing authority of the parish, municipality, or other political
17 subdivision at reasonable times and notice of the availability of these documents
18 shall be stated in the publication within the official journal or newspaper of general
19 circulation in the parish or local government entity incurring the loan. For a period
20 of thirty days after the date of publication, any person in interest may contest the
21 legality of the resolution authorizing the evidence of indebtedness or other loan and
22 any provision thereof made for the security and payment of the debt. After such
23 thirty-day period, no one shall have any cause or right of action to contest the
24 regularity, formality, legality, or effectiveness of the resolution and the provisions
25 thereof or of the bonds, notes, or other evidences of indebtedness or other loan, or
26 to provide for the payment of the debt, or the legality thereof, and all of the
27 provisions of the resolution and such evidence of indebtedness shall be
28 conclusively presumed, and no court shall have authority or jurisdiction to inquire
29 into the matter.

1 G. Interest on bonds, notes, or other evidences of indebtedness issued or any
2 loan entered into under the authority of this Section shall be exempt from all
3 taxation. Such bonds, notes, or other evidences of indebtedness or loans may be
4 used for deposit with any officer, board, municipality, or other political subdivision
5 of the state, in any case where, by present or future laws, deposit of security is
6 required for state funds.

7 §462.5. General power to issue and incur debt; to issue and undertake guarantees of
8 the debt of other entities

9 A. The commission may issue, incur, and deliver debt evidenced by bonds,
10 notes, or other evidences of indebtedness, payable from or secured by sums
11 deposited in, credited to, or to be received by the commission. The commission is
12 further authorized to undertake and to issue and deliver evidences of its guarantee
13 of the debt of other entities and is authorized to enter into and execute pledges of the
14 sums deposited in, credited to, or to be received by the commission, including
15 payments pursuant to letters of credit, to secure the debt or performance of
16 obligations of a local government for a project. Bonds, notes, or other evidences of
17 indebtedness, guarantees, and pledges issued and delivered pursuant to this authority
18 shall constitute special and limited obligations of the commission and shall not be
19 secured by the full faith and credit of the state or any source of revenue of the state
20 other than those sums on deposit in or credited to the revolving loan fund, or to be
21 received by the commission, including payments to be made pursuant to letters of
22 credit.

23 B. In no event shall any bond, note, or other evidence of indebtedness, or
24 guarantee, pledge, or other obligation of any type whatsoever entered into by the
25 commission constitute net state tax supported debt within the meaning of Article VII,
26 Section 6(C) of the Constitution of Louisiana.

27 C. Any withdrawal of monies from the revolving loan fund to pay debt
28 service on any bond, note, or other evidence of indebtedness, obligation of guarantee
29 of any debt, or pledge to secure any debt shall not constitute and shall not be subject

1 to appropriation by the legislature as provided by Article III, Section 16 of the
 2 Constitution of Louisiana.

3 * * *

4 §1367. State debt; limitations

5 * * *

6 E. As used in this Section, the following terms shall have the following
 7 meanings ascribed to them unless the context clearly indicates otherwise:

8 * * *

9 (2)

10 * * *

11 (b) "Net state tax supported debt" shall not mean:

12 * * *

13 (vii) Any bond, note, certificate, warrant, reimbursement obligation,
 14 guarantee, credit enhancement, pledge, assistance, or other evidence of indebtedness
 15 issued pursuant to R.S. 39:462.1 et seq.

16 Section 2. This Act shall become effective on July 1, 2019; if vetoed by the governor
 17 and subsequently approved by the legislature, this Act shall become effective on July 1,
 18 2019, or on the day following such approval by the legislature, whichever is later.

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 496 Engrossed 2019 Regular Session Abramson

Abstract: Establishes the Unclaimed Property Revolving Loan Commission to provide financial assistance for eligible infrastructure projects of local governments and political subdivisions.

Proposed law provides definitions for purposes of proposed law including those for "approved infrastructure program", "eligible infrastructure project", "certifying department", and "local government".

Proposed law establishes within the state treasury, the Unclaimed Property Revolving Loan Commission, hereinafter "commission", and provides for its structure, powers, and duties.

Proposed law provides that the commission shall be governed by a board of seven directors, hereinafter "board", as follows:

- (1) The state treasurer, or his designee.
- (2) One member appointed by the state treasurer.
- (3) One member appointed by the governor who has experience with the Clean Water State Revolving Loan Fund, the Drinking Water Revolving Loan Fund, or the state capital outlay budget process.
- (4) One member appointed by the speaker of the House of Representatives.
- (5) One member appointed by the president of the Senate.
- (6) One member appointed by the state treasurer from a list of three nominees submitted by the Louisiana Municipal Association.
- (7) One member appointed by the state treasurer from a list of three nominees submitted by the Louisiana Police Jury Association.

Proposed law requires the appointees of the state treasurer, the speaker of the House, and the president of the Senate to possess no less than five years of business or commercial lending experience.

Proposed law provides that the board may appoint an executive director to administer the affairs of the commission, who shall be appointed and serve at the pleasure of the board.

Proposed law requires the board to adopt bylaws and to promulgate rules and regulations in accordance with the Administrative Procedure Act concerning its fulfillment of the requirements of proposed law.

Proposed law requires the board to exercise its duties and responsibilities and grant or deny approval to applicants.

Proposed law provides for the powers of the board and the commission, which include the following:

- (1) To execute contracts and other instruments necessary for the exercise of its powers and functions, including credit enhancement devices, guarantees, pledges, and interest rate swap agreements, necessary for the implementation of the purpose of the commission.
- (2) To receive and administer all monies and any other property available for purposes of the commission.
- (3) To make low interest loans from a revolving loan fund or from any other monies on deposit with the commission.
- (4) To provide the following assistance regarding local government capital infrastructure projects:
 - (a) Offer or enter into loan guarantees, letters of credit, grants, or other forms of assistance, payments to reduce interest on loans, bond interest subsidies for bonds, provide bond guarantees, and assistance with respect to the non-federal share of project costs.
 - (b) Finance the cost and the preparation of project plans, specifications, and estimates for projects.

- (c) Improve credit market access by guaranteeing, arranging, or purchasing bond insurance or other credit enhancement devices for debt obligations issued for the project.
- (d) Finance programs authorized under a federal grant.
- (e) Establish by rule, a schedule of reasonable fees and charges to pay the costs of administering the commission.

Proposed law requires that before a loan or other assistance may be requested from the commission, the project shall first have been approved by the "certifying department" of state government that has authority to administer and approve the project in accordance with present law governing the respective approved infrastructure program.

Proposed law, with respect to a bond, note, or other evidence of indebtedness of a local government issued through a loan, requires the same requirements concerning interest rates and public notice as provided in present law concerning the adoption of a resolution or ordinance authorizing the issuance of indebtedness.

Proposed law authorizes a local government to pledge as security for a loan and any ancillary fees or other costs, any revenues from its general revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes.

Proposed law exempts from taxation any interest on bonds, notes, or other evidences of indebtedness issued through a loan.

Proposed law for purposes of security of debt or performance obligations of debt for projects, authorizes the commission to issue and deliver evidences of its guarantee of the debt of other entities, and to execute pledges of the monies on deposit in the commission, including payments pursuant to letters of credit. All evidences of indebtedness, guarantees, and pledges delivered pursuant to this authority shall constitute limited obligations of the commission and shall not be secured by the full faith and credit of the state.

Proposed law provides that the withdrawal of monies from the revolving loan fund to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee of any debt, or pledge to secure any debt shall not constitute or be subject to appropriation by the legislature.

Present law provides for the definition of "net state tax supported debt" and includes those issuances excluded from the definition.

Proposed law retains present law and adds as an exclusion, any bond, note, certificate, warrant, reimbursement obligation, or other evidence of indebtedness issued pursuant to proposed law.

Effective July 1, 2019.

(Adds R.S. 39:462.1 through 462.5 and 1367(E)(2)(b)(vii))

Summary of Amendments Adopted by House

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

1. Change proposed law from a program that establishes the La. Capital Outlay Revolving Loan Bank to the establishment of the Unclaimed Property Revolving Loan Commission and change the word "bank" to "commission" throughout proposed law as well as "bank loan" to "loan".

2. Change the board's duties from being in accordance with the duties, responsibilities, and processes of the State Bond Commission to the board exercising the ability to grant or deny approval to applicants independently.
3. Remove the board's power to secure principal, interest, and premium on bonds or other evidences of indebtedness.
4. Remove the provision that prevents money in the revolving loan fund from being expended or used without approval of the board followed by written approval of the State Bond Commission.
5. Remove requirement for the repayment of an obligation to commence after completing the project.
6. Make technical changes.