

SENATE COMMITTEE AMENDMENTS

2019 Regular Session

Amendments proposed by Senate Committee on Finance to Reengrossed House Bill No. 578
by Representative Magee

1 AMENDMENT NO. 1

2 On page 1, line 2, change "(C)(2)" to "(C)"

3 AMENDMENT NO. 2

4 On page 1, at the end of line 2, insert "(6), and (7), and (E) through (T)"

5 AMENDMENT NO. 3

6 On page 1, line 3, after "repeal" insert "R.S. 39:91(E),"

7 AMENDMENT NO. 4

8 On page 1, line 3, after "(A)(1)(b)," insert "and 2731(B)(2),"

9 AMENDMENT NO. 5

10 On page 1, line 7, after "projects;" delete the remainder of the line, and insert the following:

11 "to authorize the State Bond Commission to securitize the state's allocation of the
12 economic damage settlement of the Deepwater Horizon oil spill litigation in order
13 to fund certain transportation projects; to provide for the issuance of bonds; to
14 provide for certain requirements and limitations on the issuance of bonds; to provide
15 for a procedure to contest the validity of the issuance of the bonds; to provide for the
16 rights of bondholders; to authorize the issuance of refunding bonds; to provide
17 relative to payments to the Budget Stabilization Fund; to provide for an effective"

18 AMENDMENT NO. 6

19 On page 1, line 10, change "(C)(2)" to ""(C)"

20 AMENDMENT NO. 7

21 On page 2, delete lines 12 through 28, on page 3, delete lines 1 and 2, and insert the
22 following:

23 "(5) Beginning July 1, 2021, and each fiscal year thereafter through and
24 including Fiscal Year 2034, in such amounts as remain after payment of amounts due
25 on bonds and related expenses as provided in the documents pursuant to which bonds
26 were issued under the provisions of this Section, the state treasurer shall immediately
27 transfer the annual payments of fifty-three million three hundred thirty-three
28 thousand three hundred thirty-three dollars to the Construction Subfund of the
29 Transportation Trust Fund. The economic damage proceeds shall be used, and the
30 bonds issued by the State Bond Commission pursuant to this Section shall be issued,
31 after paying the costs associated with the issuance of the bonds, solely and
32 exclusively for the following projects and in the following amounts:

33	(a)	<u>For Fiscal Years 2021-2026, \$25,000,000</u>	
34		<u>per year for Phase Two of the LA 1 Improvement</u>	
35		<u>Project between Golden Meadow, La. and</u>	
36		<u>Leeville, La.</u>	<u>\$150,000,000</u>
37	(b)	<u>LA 415 Bridge at the Intracoastal Canal</u>	<u>\$125,000,000</u>
38	(c)	<u>I-49 South</u>	<u>\$150,000,000</u>
39	(d)	<u>LA. Highway 3241 from I-12 to Bush, La.</u>	<u>\$50,000,000</u>

1	(e)	<u>Additional two lanes for the Jimmy Davis</u>	
2		<u>Bridge (LA 511) and Repair of the Existing</u>	
3		<u>Bridge</u>	<u>\$100,000,000</u>
4	(f)	<u>Acquisition of a New Cameron Parish Ferry</u>	<u>\$20,000,000</u>
5	(g)	<u>On-System Bridge Program for the</u>	
6		<u>replacement and rehabilitation program</u>	
7		<u>for highway bridges on any federal-aid</u>	
8		<u>system over waterways, other topographical</u>	
9		<u>barriers, other highways, and railroads</u>	<u>\$40,000,000</u>
10	(h)	<u>Sugarhouse Road Extension/Eddie Williams</u>	
11		<u>Boulevard to LA 43 Highway 1, Phase I and II</u>	<u>\$19,000,000</u>
12	(i)	<u>Acquisition of Two Cranes for the Port of</u>	
13		<u>New Orleans</u>	<u>\$20,000,000</u>
14	(j)	<u>Hooper Road Widening from LA 3034 to LA 37</u>	<u>\$15,000,000</u>

15 (6) The dollar value listed, plus an amount equal to ten percent, together with
 16 other requirements including but not limited to costs of issuance, capitalized interest,
 17 if any, credit enhancement and related costs, is the maximum amount that may be
 18 financed for each of the following projects.

19 (7) The economic damage payments shall not be used by the Department of
 20 Transportation and Development for any project that is to be funded through Grant
 21 Anticipation Revenue Vehicle (GARVEE) bonds.

22 C. (1) All unexpended and unencumbered monies in the Deepwater Horizon
 23 Economic Damages Collection Fund at the end of the fiscal year shall remain in the
 24 fund. The monies in the fund shall be invested by the state treasurer in the same
 25 manner as monies in the state general fund, and interest earned on the investment of
 26 monies shall be credited to the fund.

27 (2)(a) Appropriations from the Deepwater Horizon Economic Damages
 28 Collection Fund shall be limited to an annual amount not to exceed the estimated
 29 aggregate annual earnings from interest earned on the investment of monies in the
 30 fund and shall be made to the Board of Regents to be equitably allocated to public
 31 postsecondary education institutions in the state in accordance with Article VIII,
 32 Section 5(D)(4) of the Constitution of Louisiana. The board may also distribute such
 33 appropriations to independent institutions for higher learning in accordance with R.S.
 34 17:2053.

35 (b) The monies appropriated by the legislature and disbursed from the
 36 Deepwater Horizon Economic Damages Collection Fund shall not displace, replace,
 37 or supplant funding for higher education. This Subparagraph shall mean that no
 38 appropriation for any fiscal year from the Deepwater Horizon Economic Damages
 39 Collection Fund shall be made for any purpose for which a general fund
 40 appropriation was made in the previous year unless the total appropriations for that
 41 fiscal year from the state general fund for such purpose exceed general fund
 42 appropriations for the previous year. This Subparagraph shall in no way limit
 43 general fund appropriations in excess of the minimum amounts herein established.

44 Notwithstanding any provision of law to the contrary, and as a grant of power
 45 in addition to any other general or special law, the State Bond Commission,
 46 hereinafter referred to as the "commission", on behalf of the Department of
 47 Transportation and Development, hereinafter referred to as the "department", may
 48 issue bonds, notes, certificates, or other evidences of indebtedness, hereinafter
 49 collectively referred to as the "bonds", for the purpose of funding the projects listed
 50 in R.S. 39:91(B)(5), and may pledge the economic proceeds received by the state
 51 from the Deepwater Horizon oil spill litigation for the payment of the principal and
 52 interest of such bonds. The commission is further authorized, in its discretion, to
 53 pledge all or any part of any gift, grant, donation, or other sum of money, aid, or
 54 assistance from the United States, the state, or any political subdivision thereof,
 55 unless otherwise restricted by the terms thereof, all or any part of the proceeds of
 56 bonds, credit agreements, instruments, or any other money of the commission, from
 57 whatever source derived, for the further securing of the payment of the principal and
 58 interest of the bonds. Any bonds issued pursuant to the provisions hereof shall
 59 constitute revenue bonds under Article VII, Section 6 of the Constitution of
 60 Louisiana, and such bonds shall be payable solely from an irrevocable pledge and
 61 dedication of the economic damage proceeds received by the state from the

1 Deepwater Horizon oil spill damages beginning in Fiscal Year 2022 and through
2 Fiscal Year 2034, or other fees, rates, rentals, charges, grants, or other receipts or
3 income derived by or in connection with an undertaking, facility, project, or any
4 combination thereof, without a pledge of the full faith and credit of the state,
5 hereinafter referred to as "revenues".

6 * * *

7 E. In accordance with the provisions of Article VII, Section 9(A)(6) of the
8 Constitution of Louisiana, there is hereby established a special fund for the purpose
9 of providing for the securitization of any bonds which may be issued pursuant to the
10 provisions of this Section which shall include requirements for reserves and credit
11 enhancement devices, all as may be provided in any resolution, trust agreement,
12 indenture, or other instrument pursuant to which such bonds were issued. The fund
13 shall be administered by a trustee as designated by the State Bond Commission. The
14 source of monies for the fund shall be the economic damage proceeds received by
15 the state from the Deepwater Horizon oil spill damages beginning in Fiscal Year
16 2021 and through Fiscal Year 2034, pursuant to R.S. 39:91. All revenues received
17 from the economic damages as are necessary to provide for all requirements
18 associated with the bonds as provided in this Section shall be classified and set aside
19 in a separately identifiable fund or account outside of the state treasury but
20 maintained by the state treasury and such revenues shall be assigned and pledged to
21 the trustee under the documents pursuant to which the bonds were issued for the
22 benefit of the holders of the bonds. Only after satisfaction of all requirements of this
23 Section shall any monies received by the state from the Deepwater Horizon
24 economic damages be available for any other purposes, and specifically for the
25 purposes provided for in this Section.

26 F. Bonds issued under the provisions of this Section shall not be deemed to
27 constitute a pledge of the full faith and credit of the state or of any governmental unit
28 thereof. All such bonds shall contain a statement on their face substantially to the
29 effect that neither the full faith and credit of the state nor the full faith and credit of
30 any public entity of the state are pledged to the payment of the principal of or the
31 interest on such bonds. The issuance of bonds under the provisions of this Section
32 shall not directly, indirectly, or contingently obligate the state or any governmental
33 unit of the state to levy any taxes whatsoever therefor or to make any appropriation
34 for their payment.

35 G. Bonds shall be authorized by a resolution of the commission and shall be
36 of such series, bear such date or dates, mature at such time or times, bear interest at
37 such rate or rates, including but not limited to fixed, variable, or zero rates, be
38 payable at such time or times, be in such denominations, be in such form, carry such
39 registration and exchangeability privilege, be payable in such medium of payment
40 and at such place or places, be subject to such terms of redemption prior to maturity
41 at such price or prices as determined by the commission, and be entitled to such
42 priority on the revenues as such resolution or resolutions may provide.

43 H. Bonds shall be sold by the commission at public sale by competitive bid
44 or negotiated private sale and at such price as the commission may determine to be
45 in the best interest of the commission and the state.

46 I. Except for the provisions of R.S. 39:1367, the issuance of the bonds shall
47 not be subject to any limitations, requirements, or conditions contained in any other
48 law, and bonds may be issued without obtaining the consent of any political
49 subdivision of the state or of any agency, commission, or instrumentality of the state.
50 The bonds shall be issued in compliance with the provisions of this Section.

51 J. For a period of thirty days after the date of publication of a notice of intent
52 to issue bonds in the official journal of the commission authorizing the issuance of
53 bonds hereunder, any person in interest shall have the right to contest the legality of
54 the resolution and the legality of the bond issue for any cause, but after that time no
55 one shall have any cause or right of action to contest the legality of the resolution or
56 of the bonds or the security therefor for any cause whatsoever. If no suit, action, or
57 proceeding is begun contesting the validity of the resolution, the bonds or the
58 security therefor within the thirty days herein prescribed, the authority to issue the
59 bonds and to provide for the payment thereof, the legality thereof, and all of the
60 provisions of the resolution authorizing the issuance of the bonds shall be
61 conclusively presumed to be legal and shall be incontestable. Any notice of intent so

1 published shall set forth in reasonable detail the purpose of the bonds, the security
2 therefor, and the parameters of amount, duration, and interest rates. Any suit to
3 determine the validity of bonds issued by the commission shall be brought only in
4 accordance with the provisions of R.S. 13:5121 et seq.

5 K. All bonds issued pursuant to this Section shall have all the qualities of
6 negotiable instruments under the commercial laws of the state.

7 L. Any pledge of the revenues or other monies made by the commission shall
8 be valid and binding from the time when the pledge is made. The revenues or monies
9 so pledged and thereafter received by the commission shall immediately be subject
10 to the lien of such pledge without any physical delivery thereof or further act, and the
11 lien of any such pledge shall be valid and binding as against all parties having claims
12 of any kind in tort, contract, or otherwise against the commission irrespective of
13 whether such parties have notice thereof. Any trust agreement or other instrument
14 by which a pledge is created need not be filed or recorded except in the official
15 records of the commission.

16 M. Neither the members of the commission nor any person executing the
17 bonds shall be personally liable for the bonds or be subject to any personal liability
18 or accountability by reason of the issuance thereof.

19 N. Bonds of the commission, their transfer, and the income thereof shall at
20 all times be exempt from all taxation by the state or any political subdivision thereof,
21 and may or may not be exempt for federal income tax purposes. The bonds issued
22 pursuant to this Section shall be and are hereby declared to be legal and authorized
23 investments for banks, savings banks, trust companies, building and loan
24 associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds
25 shall be eligible to secure the deposit of any and all public funds of the state and any
26 and all public funds of municipalities, parishes, school districts, or other political
27 corporations or subdivisions of the state. Such bonds shall be lawful and sufficient
28 security for said deposits to the extent of their value. When any bonds shall have
29 been issued pursuant to Subsection A of this Section, neither the legislature, the state,
30 nor any other entity may act to impair any obligation or contract for the benefit of
31 the holders of the bonds or discontinue or decrease the fees, taxes, rates, or other
32 revenues pledged to the payment of the bonds authorized hereunder or permit to be
33 discontinued or decreased said revenues in anticipation of the collection of which
34 such bonds have been issued, or in any way make any change in the allocation and
35 dedication of any fee, rate, or other revenues which would diminish the amount of
36 the revenues to be received by the commission, until all such bonds shall have been
37 retired as to principal and interest, and there is hereby vested in the holders from
38 time to time of such bonds a contract right in the provisions of this Section.

39 O. The commission may provide by resolution for the issuance of refunding
40 bonds pursuant to R.S. 39:1444 et seq.

41 P. The holders of any bonds issued hereunder shall have such rights and
42 remedies as may be provided in the resolution or trust agreement authorizing the
43 issuance of the bonds, including but not by way of limitation, appointment of a
44 trustee for the bondholders, and any other available civil action to compel
45 compliance with the terms and provisions of the bonds and the resolution or trust
46 agreement.

47 Q. Subject to the agreements with the holders of bonds, all proceeds of bonds
48 and all revenues pledged under a resolution or trust agreement authorizing or
49 securing such bonds shall be deposited and held in trust in a fund or funds separate
50 and apart from all other funds of the state treasury or of the department. Subject to
51 the resolution or trust agreement, the trustee shall hold the same for the benefit of the
52 holders of the bonds for the application and disposition thereof solely to the
53 respective uses and purposes provided in such resolution or trust agreement.

54 R. The commission is authorized to employ all professionals it deems
55 necessary in the issuance of the bonds.

56 S. The commission is authorized to enter into any and all agreements or
57 contracts, execute any and all instruments, and do and perform any and all acts
58 necessary, convenient, or desirable for the issuance of the bonds or to carry out any
59 power expressly given in this Section.

60 T. Any other provision of law to the contrary notwithstanding, any revenues
61 deposited in the bond fund that are pledged to the repayment of any bonds issued in

1 accordance with this Section may be collected and disbursed in accordance with the
2 documents pursuant to which such bonds were issued."

3 AMENDMENT NO. 8

4 On page 3, between lines 25 and 26, insert:

5 "Section 2. Each year the annual payments required by statutory law to the
6 Budget Stabilization Fund shall be fulfilled first from surplus revenues from the prior
7 fiscal year, secondly, after fulfilling the requirements of R.S. 39:100.61 from excess
8 revenues of the current fiscal year, or by an appropriation from the state general
9 fund."

10 AMENDMENT NO. 9

11 On page 3, line 26, change "Section 2." to "Section 3."

12 AMENDMENT NO. 10

13 On page 3, delete line 28, and insert:

14 "Section 4. R.S. 39:91(E) and R.S. 46:2691(A)(1)(b) and 2731(B)(2) are
15 hereby repealed in their entirety."

16 AMENDMENT NO. 11

17 On page 4, line 1, delete "Section 4. This" and insert "Section 5. Sections 1, 2, 4, and 5 of
18 this"

19 AMENDMENT NO. 12

20 On page 4, line 3, after "Louisiana." and before "If" insert "Section 3 of this Act shall
21 become effective on July 1, 2020."

22 AMENDMENT NO. 13

23 On page 4, line 4, after "legislature," and before "this" insert "Sections 1, 2, 4, and 5 of"

24 AMENDMENT NO. 14

25 On page 4, at the end of line 5, insert:

26 "If vetoed by the governor and subsequently approved by the legislature, Section 3
27 of this Act shall become effective on July 1, 2020."