

2021 Regular Session

HOUSE BILL NO. 302

BY REPRESENTATIVE BISHOP

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

CAPITAL OUTLAY: Provides relative to capital outlay

1 AN ACT

2 To amend and reenact R.S. 39:100.121(A)(1) and (2)(b), 105(A), 112(C)(1)(c) and (2)(b),

3 (E)(1) and (2)(introductory paragraph), and (G)(1), and 115(A) and (B), to enact R.S.

4 39:112(H) and 121.1, and to repeal R.S. 39:112(E)(2)(b), relative to capital outlay;

5 to provide with respect to the capital outlay process; to provide for certain

6 definitions; to provide for certain requirements for nonstate projects; to provide with

7 respect to the local match requirements for certain projects; to provide for certain

8 notifications; to require certain reports; to require the inclusion of certain information

9 concerning state indebtedness within the Capital Outlay Act; to require certain

10 projects to be included in the Capital Outlay Act or to obtain legislative approval; to

11 require the appropriations for certain projects to be deposited into the Capital Outlay

12 Savings Fund; to require the timely submission of certain invoices; to provide for

13 applicability; to provide for an effective date; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 39:100.121(A)(1) and (2)(b), 105(A), 112(C)(1)(c) and (2)(b), (E)(1)
2 and (2)(introductory paragraph), and (G)(1), and 115(A) and (B) are hereby amended and
3 reenacted and R.S. 39:112(H) and 121.1 are hereby enacted to read as follows:

4 §100.121. Capital Outlay Savings Fund

5 A.(1) There is hereby created in the state treasury, as a special fund, the
6 Capital Outlay Savings Fund, hereinafter referred to as the "fund". The fund shall
7 be comprised of both recurring and nonrecurring state general fund revenues.

8 (2)

9 * * *

10 (b) In the event that a project included in the comprehensive capital outlay
11 budget that has a state general fund direct ~~nonrecurring revenue~~ appropriation,
12 regardless of whether the appropriation is from recurring or nonrecurring revenue,
13 is deemed null by the division of administration or is vetoed by the governor, the
14 state treasurer is authorized and directed to deposit into the fund an amount equal to
15 the amount of the appropriation for the project that is deemed null or vetoed from the
16 recurring or nonrecurring revenues, whichever is applicable, in the state general
17 fund.

18 * * *

19 §105. Capital Outlay reports to Joint Legislative Committee on Capital Outlay

20 A.(1) The office of facility planning and control and any state agency
21 authorized to administer capital outlay appropriations shall submit to the Joint
22 Legislative Committee on Capital Outlay, an annual written report no later than the
23 first day of February, The report shall include the following information of each
24 project included in the prior year's capital outlay budget ~~which includes the~~
25 ~~following information:~~

26 ~~(1)~~(a) The title of the project.

27 ~~(2)~~(b) The total budget for the project from all means of financing.

28 ~~(3)~~(c) A breakdown of the funding of the project including all cash and
29 general obligation bond funding of the project.

1 ~~(4)~~(d) The amount of state and local funds, including local match funds,
2 expended on the project.

3 ~~(5)~~(e) The amount of project funding that has been encumbered, including
4 all cash and general obligation bond cash and noncash lines of credit approved for
5 the project.

6 ~~(6)~~(f) The total amount of funds the project will need to spend in the next
7 fiscal year.

8 ~~(7)~~(g) The current status of the project as either active or complete.

9 ~~(8)~~(h) If the project is complete, the total amount of unspent appropriations
10 remaining on the project, including the means of finance of the funds.

11 (2) Each project which is funded through a cash means of finance or which
12 received advance funding in a bond sale shall also be included in the annual report
13 required in Paragraph (1) of this Subsection regardless of whether the project was in
14 the prior year's capital outlay budget. Additionally, the office of facility planning
15 and control shall continue to include each such project in the annual report until a
16 certificate of completion for the project has been issued by the office of facility
17 planning and control.

18 * * *

19 §112. Capital ~~outlay act~~ Outlay Act

20 * * *

21 C.(1) Capital outlay budget requests submitted after November first may be
22 included within the capital outlay act if the capital outlay budget request meets all
23 of the applicable requirements as provided in R.S. 39:101 and 102 except for time
24 of submission and if any of the following conditions have been met:

25 * * *

26 (c) The project is for a ~~non-state~~ nonstate entity, has a total project cost of
27 less than one million dollars, and has been approved by the Joint Legislative
28 Committee on Capital Outlay; however, no action to approve any such project may

1 be taken by the Joint Legislative Committee on Capital Outlay after the first day of
2 February.

3 * * *

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

6 * * *

7 (b) "Economic development project" means a recruitment or retention
8 project undertaken or sponsored by the Department of Economic Development or a
9 political subdivision or other public entity which has economic development as part
10 of its stated mission or purpose, which meets one of the following criteria:

11 (i) Improvements on public or government-owned property for the purposes
12 of attracting or retaining a specific new or existing manufacturing or business
13 operation that ~~benefits~~ benefit Louisiana;

14 ~~(ii) Facilities or improvements on public or government-owned property that~~
15 ~~generate new, permanent employment, or which help retain existing employment.~~

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

18 * * *

19 E.(1) General obligation bond funding of ~~non-state~~ nonstate projects shall
20 be limited to no more than twenty-five percent of the cash line of credit capacity for
21 projects in any fiscal year. ~~Non-state~~ Nonstate projects are those projects not owned
22 and operated by the state except those projects determined by the commissioner of
23 administration to be a regional economic development initiative or regional health
24 care facility operated in cooperation with the state.

25 (2) ~~Non-state~~ Nonstate entity projects shall require a match of not less than
26 twenty-five percent of the total requested amount of funding except:

27 * * *

28 G.(1) Projects to be funded through the ~~sale of bonds~~ issuance of debt or
29 other agreements including but not limited to agreements of lease, lease-purchase,

1 or third party financing, and secured by or payable from state appropriation shall
2 either be included in the ~~capital outlay act~~ Capital Outlay Act or shall obtain
3 legislative approval as set forth in this Subsection.

4 * * *

5 H. The Capital Outlay Act shall include a statement concerning the total
6 outstanding net state tax supported debt as defined in R.S. 39:1367, as reported in the
7 most recent report by the state treasurer concerning net state tax supported debt. The
8 amounts of principal and interest payable on this indebtedness shall be reported
9 separately. Further, the Capital Outlay Act shall contain an estimate of debt service
10 costs associated with the amount of new general obligation bond cash line of credit
11 capacity for that fiscal year, pursuant to Subsection F of this Section. The net state
12 tax supported debt model shall be used in the calculation of the estimate.

13 * * *

14 §115. Notice requirements

15 A. The office of facility planning and control shall send notice to all ~~non-~~
16 ~~state~~ nonstate entities of the need to resubmit a capital outlay budget request for
17 projects that do not receive a line of credit for the total amount of bond proceeds
18 authorized in the ~~capital outlay act~~ Capital Outlay Act for that fiscal year. The notice
19 shall list all of the ~~non-state~~ nonstate entity's projects which have not been
20 recommended for lines of credit or have not received lines of credit prior to
21 September fifteenth of the year for which notice is sent to the ~~non-state~~ nonstate
22 entity.

23 B. The office of facility planning and control shall also send a notice of the
24 need to resubmit a capital outlay budget request to each state representative and state
25 senator who has any project in his geographic area that ~~did not receive~~ has not been
26 recommended for a line of credit or has not received a line of credit for the total
27 amount of bond proceeds authorized in the ~~capital outlay act~~ Capital Outlay Act for
28 that year. The notice shall list all of the projects in the representative's or senator's

1 geographic area which have not received lines of credit prior to September fifteenth
2 of the year for which notice is sent to the representative or senator.

3 * * *

4 §121.1. Timely submission of invoices

5 Any entity administering a capital outlay project included in the
6 comprehensive capital outlay budget shall require all parties performing any portion
7 of planning and designing, including engineers and architects, or parties contracted
8 with for the construction of a capital outlay project to submit invoices for the
9 payment of services rendered or performed within one hundred twenty days of the
10 date the services were rendered or performed. Failure of a party to timely submit an
11 invoice for services rendered or performed shall result in the party's claim for
12 reimbursement or payment from the state being denied.

13 Section 2. R.S. 39:112(E)(2)(b) is hereby repealed in its entirety.

14 Section 3. The provisions of this Act shall be applicable to the funding of all projects
15 included in the capital outlay budget for fiscal years commencing on or after July 1, 2021.

16 Section 4. This Act shall become effective on July 1, 2021.

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 302 Original

2021 Regular Session

Bishop

Abstract: Adds reporting requirements for capital outlay projects, requires projects funded through the issuance of debt to be included in the Capital Outlay Act, and eliminates the needs-based exemption from the local match requirement for nonstate entity projects.

Present law requires the governor to submit his capital outlay budget which implements the first year of the five-year 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 a capital outlay budget request 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, the project is an emergency project recommended in writing by the commissioner of administration, the project is for a nonstate 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 requires the office of facility planning and control and any state agency which administers capital outlay appropriations to submit an annual report to the Joint Legislative Committee on Capital Outlay of each project included in the prior year's capital outlay budget. The report includes information such as the project title, the total project budget from all means of financing, including state and local funds, local match information, information on funds expended and encumbered on the project, and the project's status.

Proposed law retains present law but adds a requirement that the information required to be reported in present law shall also be reported for projects which are no longer in the prior year's capital outlay budget because the project received funding through a cash means of finance or from advance bond sales. Further requires this information to continue to be reported until a certificate of completion has been issued by the office of facility planning and control.

Present law provides for specific criteria that a project must meet in order to be considered an "economic development project". Criteria include projects such as improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La. or facilities or improvements on public or government-owned property that generate new, permanent employment or which help retain existing employment.

Proposed law specifies that the improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation must benefit La. *and* generate new, permanent employment or help retain existing employment.

Present law requires nonstate 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.
- (2) Projects for which a nonstate 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 nonstate 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 nonstate entity projects for which the nonstate entity has demonstrated its inability to provide a local match. Otherwise retains present law.

Present law requires projects funded through the sale of bonds and secured by or payable from state appropriation to be included in the Capital Outlay Act or if not included in the Capital Outlay Act to be approved between sessions by the division of administration submitting those projects to the Interim Emergency Board for approval by a majority vote of the elected members of each house of the legislature. Further requires, following legislative approval, that requests to sell bonds be submitted to the State Bond Commission (SBC) for review and approval.

Proposed law retains present law regarding legislative approval and submission to the SBC for review and approval but changes the projects which are required to go through this approval process from projects funded through the sale of bonds to projects funded through

the issuance of debt or other agreements including agreements of lease, lease-purchase, or third party financing.

Present law requires the office of facility planning and control to send notice to all nonstate entities of the need to resubmit a capital outlay budget request for projects that do not receive a line of credit prior to Sept. 15th for the total amount of bond proceeds authorized in the Capital Outlay Act for that fiscal year. Further requires the notice to also be sent to each state representative and state senator who represents the geographic area of the project.

Proposed law retains present law but specifies that the notice is to be sent if the project has not received or been recommended for a line of credit prior to Sept. 15th of each year.

Present law establishes various requirements for content to be included in the Capital Outlay Act.

Proposed law retains present law and adds a requirement that the Capital Outlay Act include a statement concerning the total outstanding net state tax supported debt, including the specific amount of principle and interest, as defined in present law. Further, the Capital Outlay Act shall contain an estimate of debt service costs associated with the amount of new general obligation bond (GOB) cash line of credit capacity for that fiscal year, as provided in proposed law.

Present law provides a procedure for the development of a list of recommended projects to be presented to the SBC for consideration for a GOB cash line of credit.

Proposed law retains present law and requires that for each project presented to the SBC for this purpose there be included an estimate of debt service costs associated with the sale of debt for the total project cost.

Present law provides for the Capital Outlay Savings Fund as a special fund (fund) in the state treasury and restricts use of the monies in the fund to capital outlay projects and to allocate or appropriate funds into the Budget Stabilization Fund. Further provides that if a project included in the capital outlay budget that has a state general fund (SGF) direct non-recurring revenue appropriation is deemed null or is vetoed, the state treasurer is directed to deposit into the fund an amount equal to the amount of the appropriation deemed null or vetoed from the nonrecurring revenues in the SGF.

Proposed law retains present law but adds a requirement that states a general fund appropriation, regardless of whether it is recurring or non-recurring revenue, for projects deemed null or vetoed be deposited into the fund.

Proposed law requires any entity administering a capital outlay project to require all parties performing any portion of planning and designing or personnel contracted with for the construction of a capital outlay project to submit invoices for the payment of services rendered or performed within 120 days of the date the services were rendered or performed. Failure of a party to timely submit an invoice for services rendered or performed shall result in the party's claim for reimbursement or payment from the state being denied

Applicable to the funding of all nonstate entity projects included in the capital outlay budget for fiscal years commencing on or after July 1, 2021.

Effective July 1, 2021.

(Amends R.S. 39:100.121(A)(1) and (2)(b), 105(A), 112(C)(1)(c) and (2)(b), (E)(1) and (2)(intro. para.), and (G)(1), and 115(A) and (B); Adds R.S. 39:112(H) and 121.1; Repeals R.S. 39:112(E)(2)(b))