

2024 Regular Session

HOUSE BILL NO. 940

BY REPRESENTATIVE TURNER

BONDS: Authorizes the issuance of bonds to finance deferred maintenance projects included in the College and University Deferred Maintenance and Capital Improvement Program

1 AN ACT

2 To enact Part VII-A of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, to

3 be comprised of R.S. 17:3369.1 through 3369.3, relative to financing deferred

4 maintenance and facility capital improvements at public postsecondary educational

5 institutions; to authorize the issuance of bonds for the financing of certain projects;

6 to provide for requirements and limitations with respect to the issuance of bonds; to

7 provide for definitions; to provide for the management and administration of

8 projects; to exempt certain projects from the requirement of being included in the

9 annual capital outlay budget; to provide for the duties and responsibilities of certain

10 management boards; to provide for the duties and responsibilities of the

11 commissioner of administration; to limit the amount of bonds that may be issued; to

12 provide for the allocation of certain monies; to require certain reports; to provide for

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

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Part VII-A of Chapter 26 of Title 17 of the Louisiana Revised Statutes of  
16 1950, comprised of R.S. 17:3369.1 through 3369.3 is hereby enacted to read as follows:

1 PART VII-A. COLLEGE AND UNIVERSITY DEFERRED MAINTENANCE

2 AND CAPITAL IMPROVEMENT PROGRAM

3 §3369.1. College and university deferred maintenance and capital improvement  
4 program; intent

5 It is the intent of the legislature to establish a program to address the deferred  
6 maintenance and capital improvement needs that exist for facilities located on public  
7 postsecondary educational institution campuses in Louisiana. This Part specifically  
8 authorizes the issuance of bonds in order to address the deferred maintenance and  
9 capital improvement projects that exist at each public postsecondary educational  
10 facility in the state. The authorities granted to the Board of Supervisors of Louisiana  
11 State University and Agricultural and Mechanical College, the Board of Supervisors  
12 for the University of Louisiana System, the Board of Supervisors of Southern  
13 University and Agricultural and Mechanical College, and the Board of Supervisors  
14 of Community and Technical Colleges pursuant to this Part are intended to facilitate  
15 the finance of deferred maintenance and capital improvements projects and to ensure  
16 their completion in an expeditious manner.

17 §3369.2. Definitions

18 As used in this Part, the following words shall have the following meanings  
19 unless the context clearly indicates otherwise:

20 (1) "Annual appropriation dependency clause" means a clause which shall  
21 be included in any financing arrangement which provides that if, after a diligent and  
22 good faith effort by the state to appropriate funds for the payment of sums due under  
23 a financing agreement, the funds are not appropriated, the agreement shall be  
24 terminated, and the state shall not be liable for the payment of further sums due  
25 thereunder.

26 (2) "Board" means the Board of Supervisors of Southern University and  
27 Agricultural and Mechanical College, the Board of Supervisors for the University of  
28 Louisiana System, the Board of Supervisors of Louisiana State University and

1        Agricultural and Mechanical College, or the Board of Supervisors of Community and  
2        Technical Colleges.

3                (3) "Corporation" means the nonprofit corporation which may be utilized to  
4        accomplish the purposes of this Part.

5                (4) "Project" means improvements addressing deferred maintenance of  
6        public facilities including the complete renovation of buildings with significant  
7        deferred maintenance needs; utility infrastructure; drainage, street, sidewalk, and site  
8        infrastructure; the demolition of public facilities and any other improvements to  
9        address deferred maintenance needs, to be financed as authorized and provided in  
10       this Part and R.S. 17:3361, et seq. The term "project" shall not include new  
11       buildings or building additions, other than minor additions required for code  
12       compliance or improved access to a public facility.

13                (5) "Public facility" or "public facilities" means buildings, equipment, and  
14        other permanent property or immovable property of the system under the supervision  
15        and control of the board.

16                (6) "System" means the Louisiana State University System, the University  
17        of Louisiana System, the Southern University System, or the Louisiana Community  
18        and Technical College System.

19        §3369.3. Authority of the board to execute agreements related to the finance of  
20        deferred maintenance and capital improvements; nonprofit corporation;  
21        administration and management of projects

22                A.(1) Projects may, at the direction of the board, be funded through the  
23        issuance of bonds, notes, or other evidences of indebtedness or through financing  
24        programs provided by the Louisiana Local Government Environmental Facilities and  
25        Community Development Authority, pursuant to R.S. 33:4548.1 et seq., or a public  
26        trust duly organized pursuant to R.S. 9:2341 et seq., having for its beneficiary the  
27        state, with the approval of the State Bond Commission.

28                (2) Bonds, notes, or other evidences of indebtedness may be issued as serial  
29        bonds or as term bonds and shall bear such date or dates, mature at such time or

1 times, not exceeding thirty years from their respective dates, bear interest at such rate  
2 or rates, including variable, adjustable, or zero interest rates, be payable at such time  
3 or times, be in such denominations, be sold at such price or prices, at public or  
4 private negotiated sale, after advertisement as is provided for in R.S. 39:1426 et seq.,  
5 be in such form, carry such registration and exchangeability privileges, be payable  
6 at such place or places, be subject to such terms of redemption, as may be provided  
7 in the indenture, trust agreement, or resolution relating to such bonds. Bonds, notes,  
8 or other evidences of indebtedness may be sold in such manner and from time to  
9 time as may be determined by the issuer and the board to be most beneficial, subject  
10 to approval of the State Bond Commission.

11 (3) Projects financed or constructed on behalf of a system pursuant to the  
12 program established in this Part shall not be required to be included in the annual  
13 comprehensive capital budget nor obtain legislative approval as provided in R.S.  
14 39:112(G).

15 (4) Projects financed or constructed on behalf of a system pursuant to the  
16 program established in this Part shall be managed and administered by a corporation  
17 established for such purposes, regardless of the source of revenues used to fund the  
18 projects. Notwithstanding any provision of this Chapter to the contrary, the  
19 corporation shall adhere to the following requirements with respect to any project it  
20 undertakes pursuant to this Section:

21 (a) The corporation shall disclose on the board's internet homepage and make  
22 available consistent with the Public Records Law its property interest and that of any  
23 party contracting with the corporation in connection with a project.

24 (b) The corporation shall disclose on the board's internet homepage and  
25 make available consistent with the Public Records Law its responsibilities and those  
26 of any party contracting with the corporation in the development of a project.

27 (c) The corporation shall disclose on the board's internet homepage and make  
28 available consistent with the Public Records Law its responsibilities and those of any  
29 party contracting with the corporation with respect to the financing of a project.

1           (d) The corporation shall disclose the contracts it enters into in connection  
2           with a project on the board's internet homepage and make the contracts available  
3           consistent with the Public Records Law.

4           (e) The president of the system or his designee shall be provided reasonable  
5           notice of and all materials relating to and be allowed to attend and participate in all  
6           meetings of the corporation's board of directors and of any committee thereof  
7           charged with the procurement, management, or oversight of a project.

8           (f)(i) Each board member of the corporation and each member of his  
9           immediate family who derives anything of economic value directly, through any  
10           transaction involving the corporation or who derives anything of economic value of  
11           which he may be reasonably expected to know through a person which has bid on or  
12           entered into or is in any way financially interested in any contract, subcontract, or  
13           any transaction under the supervision or jurisdiction of the corporation shall disclose  
14           the following substantially in accordance with the Code of Governmental Ethics: the  
15           amount of income or value of any thing of economic value derived; the nature of the  
16           business activity; the name and address of filer and name of and relationship to the  
17           board member, if applicable; and the name and business address of the legal entity,  
18           if applicable.

19           (ii) The corporation shall adopt and maintain a policy on conflicts of interest,  
20           which shall include provisions requiring the corporation's board of directors and  
21           committee members to make appropriate disclosures of any actual or potential  
22           conflicts of interest and requiring, following disclosure of a conflict, the member  
23           who discloses such a conflict to physically leave any meetings for the duration of any  
24           discussion concerning the matter disclosed, to abstain from voting on any issues  
25           relating to the matter disclosed, and to refrain from any discussion designed to  
26           influence or otherwise participating in any decision-making process relating to the  
27           matter disclosed.

28           (g) Prior to beginning construction or management of any project in excess  
29           of one million dollars of total installed costs, the corporation or the board shall hold

1        a public meeting in accordance with the Open Meetings Law. The corporation or the  
2        board shall consider any public input provided at the public meeting prior to  
3        beginning construction or selecting any contractor. The minutes of all meetings of  
4        the corporation shall be published on the board's internet homepage and made  
5        available consistent with the Public Records Law.

6                (h) For any project in excess of one million dollars of total installed costs,  
7        the corporation shall issue a request for qualifications or request for proposals to  
8        select contractors for any project. The procedures for issuing the request for  
9        proposals shall be consistent with procurement through competitive sealed bid or  
10       competitive negotiation and include the following provisions:

11               (i) The corporation shall establish and use public announcement procedures  
12       for solicitation of letters of interest from qualified contractors. The public  
13       announcement procedures shall include a requirement for advertisement on the  
14       board's internet home page and in a newspaper of general circulation in the parish  
15       or municipality where the project is situated. The corporation shall include a  
16       deadline for submission of letters of interest within any such public announcement.  
17       All notices shall be posted no less than twenty days prior to selecting a contractor for  
18       a project.

19               (ii) The corporation shall provide a request for qualifications package or  
20       request for proposals package to any contractor who submits a letter of interest. All  
21       required information shall be identified in the package and in the standard response  
22       forms.

23               (i) The corporation shall require interested contractors to include the  
24       following items in their responses to the request for qualifications package or request  
25       for proposals package:

26               (i) Financial disclosure statements, substantially in accordance with R.S.  
27       42:1114, by which a contractor or his immediate family who derives any thing of  
28       economic value, directly, through any transaction involving the board or the  
29       corporation or who derives any thing of economic value of which he may be

1 reasonably expected to know through a person which has bid on or entered into or  
2 is in any way financially interested in any contract, subcontract, or any transaction  
3 involving the board or the corporation shall disclose the following: the amount of  
4 income or value of any thing of economic value derived; the nature of the business  
5 activity; the name and address, and relationship to the contractor, if applicable; and  
6 the name and business address of the legal entity, if applicable.

7 (ii) Proposed responsibilities of interested contractors in the development of  
8 the project.

9 (iii) Proposed responsibilities with respect to the financing of the project.

10 (iv) Statements of qualification concerning the experience and resources of  
11 the prospective contractor.

12 (j) The corporation shall evaluate and grade all responses. Alternatively, an  
13 advisory committee authorized by a cooperative endeavor agreement with the state  
14 of Louisiana may evaluate and grade all responses. The corporation shall develop  
15 and make public its selection criteria for selecting a contractor on a project. The  
16 corporation shall consider the following nonexclusive list of factors as part of its  
17 selection process:

18 (i) Professional training and experience of key personnel in general and as  
19 related to the project described in the request for qualifications.

20 (ii) Capacity for timely completion of the work.

21 (iii) Past performance on projects of a similar nature to the project described  
22 in the request for qualifications.

23 (iv) Any criteria that apply to project-specific needs.

24 (v) Cost of services. The corporation is not required to select the lowest cost  
25 submission, but it shall consider the cost of services as one of the various factors in  
26 evaluating the responses.

27 (k) After reviewing all submissions made in response to the request for  
28 qualifications or request for proposals, selecting a qualified contractor, and obtaining  
29 approval in writing for the letting of the contract from the board, the corporation

1 shall submit letters to the selected proposing parties notifying them of their selection  
2 and begin contract negotiations. The corporation shall also submit letters with a  
3 statement identifying the selected proposing party to all parties who submitted  
4 responses but were not selected. The corporation shall make available for  
5 inspection, by any party who submitted a response, scoring sheets or other materials  
6 utilized in selecting the selected proposing parties, which sheets or materials shall  
7 include the criteria outlined in Subparagraph (j) of this Paragraph, subject to  
8 protections of information provided in Subparagraph (l) of this Paragraph.

9 (l)(i) The corporation shall make at least one copy of each response to its  
10 request for qualifications or proposals available consistent with the Public Records  
11 Law. All documents submitted to the corporation that are made available to the  
12 public shall be provided in a form that protects against the disclosure of any of the  
13 following that have been marked "CONFIDENTIAL" by the submitting party:

14 (aa) Proprietary or trade secret information of a submitting party pertaining  
15 to any code, pattern, formula, design, device, method, or process.

16 (bb) Financial records of a submitting party.

17 (cc) Specific cost estimates produced and submitted by a submitting party.

18 (ii) Information protected from disclosure by Item (i) of this Subparagraph  
19 may be disclosed as agreed to by the submitting party and the corporation.

20 (m) The corporation shall continuously review and monitor the status of and  
21 contractor performance for each project that the corporation undertakes. The  
22 corporation shall make available on the board's internet homepage and consistent  
23 with the Public Records Law annual reports explaining contractor performance for  
24 each project that it has undertaken or completed during the previous year, listing  
25 those projects that are expected to be solicited for bid within the next year, listing  
26 those projects that are in progress, listing those projects removed from consideration  
27 during the prior year, identifying all contractors for each project completed or in  
28 progress, and accounting for all funds expended on each project. Each annual report  
29 shall be completed, made available for public inspection, and submitted to the



1 commissioner of administration and the Joint Legislative Committee on Capital  
2 Outlay by April thirtieth in the calendar year following the calendar year that is the  
3 subject of the annual report. Each annual report and all books and records of the  
4 corporation directly pertaining to the expenditure of project funds, including but not  
5 limited to all design and construction contracts, change orders, and pay applications,  
6 shall be maintained for a minimum of three years following final completion of the  
7 project and shall be subject to audit by internal or external auditors selected by the  
8 board.

9 (n) All records that are public records pursuant to this Paragraph may be  
10 maintained in an electronic format.

11 (5) The board shall exercise its authority granted pursuant to R.S. 17:3361  
12 et seq. as may be necessary to provide for the completion of the projects enumerated  
13 in this Section. The board may grant leases of property under its supervision to a  
14 nonprofit corporation or to an entity authorized to issue bonds as set forth in  
15 Paragraph (1) of this Subsection for the purpose of financing projects, and the  
16 maximum amount of bonds that may be issued shall not exceed one billion six  
17 hundred eighty-one million dollars, together with other requirements including but  
18 not limited to costs of issuance, if any, credit enhancement and related costs.  
19 Notwithstanding any provision of R.S. 17:3361, et seq., to the contrary, the term of  
20 any lease agreement made for purposes of this Part shall not exceed thirty years.

21 (6) No monies shall be appropriated pursuant to the provisions of this Part  
22 for any project until July 1, 2026.

23 (7) No bonds, notes, or other evidences of indebtedness may be issued for  
24 any project or by any system for a project to be financed pursuant to this Part after  
25 July 1, 2036.

26 B. The maximum amount of bonds that may be issued to finance projects  
27 pursuant to this Part shall not exceed one billion six hundred eighty-one million  
28 dollars, together with other requirements including but not limited to costs of

1 issuance, if any, credit enhancement and related costs to be allocated to the board of  
2 each system as follows:

3 (a) The Southern University System, one hundred fifty-three million dollars.

4 (b) The University of Louisiana System, five hundred twenty-three million  
5 dollars.

6 (c) The Louisiana State University System, seven hundred-fifty two million  
7 dollars.

8 (d) The Louisiana Community and Technical College System, two hundred  
9 fifty-three million dollars.

10 C. The commissioner of administration shall approve the cooperative  
11 endeavor agreements entered into by the parties for any project undertaken pursuant  
12 to the provisions of this Part prior to commencement of any work, including planning  
13 and design. Each cooperative endeavor agreement shall include an annual  
14 appropriation dependency clause.

15 Section 2. This Act shall become effective upon signature by the governor or, if not  
16 signed by the governor, upon expiration of the time for bills to become law without signature  
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
19 effective on the day following such approval.

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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)]

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HB 940 Engrossed

2024 Regular Session

Turner

**Abstract:** Authorizes the issuance of up to \$1.681 billion in bonds to fund deferred maintenance projects included in the College and University Deferred Maintenance Capital Improvement Program

Proposed law establishes the College and University Deferred Maintenance Capital Improvement Program to address the deferred maintenance and capital improvement needs at public postsecondary educational institutions in La. Proposed law grants the Bd. of Supervisors of La. State University and Agricultural and Mechanical College, the Bd. of Supervisors for the University of La. System, the Bd. of Supervisors of Southern University and Agricultural and Mechanical College, and the Bd. of Supervisors of Community and

Technical Colleges (hereinafter collectively "boards") the authority to facilitate the financing of deferred maintenance and capital improvements projects.

Proposed law defines a "project" as improvements addressing deferred maintenance of public facilities including the complete renovation of buildings with significant deferred maintenance needs; utility infrastructure; drainage, street, sidewalk, and site infrastructure; the demolition of public facilities, and any other improvements to address deferred maintenance needs, to be financed as authorized and provided in proposed law. The term "project" shall not include new buildings or building additions, other than minor additions required for code compliance or improved access to a public facility.

Proposed law defines a "public facility" or "public facilities" as buildings, equipment, and other permanent property or immovable property of the system under the supervision and control of the board.

Proposed law defines "system" as the La. State University System, the University of La. System, the Southern University System, or the La. Community and Technical Colleges System.

Proposed law authorizes the board of a system, at its discretion, to fund projects or to fund these projects through financing programs provided by the La. Local Government Environmental Facilities and Community Development Authority pursuant to present law (R.S. 33:4548.1 et seq.) or a public trust duly organized pursuant to present law that has the state as its beneficiary, with the approval of the State Bond Commission.

Proposed law provides for the requirements and limitations for issuance of the bonds including the maturity dates, term of the bonds, interest rates, denominations, and price.

Proposed law exempts projects financed or constructed on behalf of a system from the present law requirement of being included in the annual comprehensive capital budget or to obtain legislative approval.

Proposed law requires projects financed or constructed on behalf of a system to be managed and administered by a corporation, regardless of the source of revenues used to fund the projects. Further provides for requirements that the corporation must adhere to including disclosure of property interests of any party contracting with the corporation in connection with a project, its responsibilities and those of any party contracting with the corporation in the development of a project, disclosure of contracts the board enters into, responsibilities of any party contracting with the corporation with respect to the financing of a project, and adoption and maintenance of a policy on conflicts of interest.

Proposed law requires the president of a system to be provided reasonable notice of and all materials relating to and be allowed to attend and participate in all meetings of the corporation's board of directors and of any committee of the corporation charged with the procurement, management, or oversight of a project.

Proposed law requires each board member of the corporation and each member of his immediate family who derives anything of economic value directly, through any transaction involving the corporation or who derives anything of economic value of which he may be reasonably expected to know through a person which has bid on or entered into or is in any way financially interested in any contract or transaction under the supervision or jurisdiction of the corporation to disclose certain information in compliance with the Code of Governmental Ethics as provided for in present law.

Proposed law requires the corporation to hold a public hearing in accordance with present law (Open Meetings Law) prior to beginning construction or management of any project in excess of \$1 million of total installed costs and to issue a request for qualifications or request for proposals to select contractors for any project in excess of \$1 million.

Proposed law requires the corporation to publish minutes of all meetings on the board's internet homepage in accordance with the Public Records Law as provided for in present law.

Proposed law requires the corporation to establish procedures for and to use a public announcement system for solicitation of letters of interest from qualified contractors and to provide a request for qualifications package or request for proposals package to any contractor who submits a letter of interest. All required information shall be identified in the package and in standard response forms. Further provides for items interested contractors must include in their responses to the request for qualifications package or request for proposals package.

Proposed law requires the corporation to evaluate and grade all responses received from solicitation of offers or to alternatively allow an advisory committee to evaluate and grade all responses. Proposed law provides for factors the corporation must consider as part of its selection process.

Proposed law requires the corporation to establish a process for selection of qualified contractors and obtaining approval in writing for the letting of the contract from the board and to continuously review and monitor the status of and contractor performance for each project that the corporation undertakes.

Proposed law provides with respect to annual reports the corporation is required to make available on the internet and make available for public inspection. Further requires annual reports to be submitted to the commissioner of administration and the Joint Legislative Committee on Capital Outlay by April 30 in the calendar year following the calendar year that is the subject of the annual report. The corporation is required to maintain annual reports, books, and records directly pertaining to the expenditure of project funds, for a minimum of three years following final completion of the project and shall be subject to audit by internal or external auditors selected by the board.

Proposed law authorizes the board to grant leases of property under its supervision to a nonprofit corporation or to an entity authorized to issue bonds for the purpose of financing projects. Further limits the term of any lease agreement to not more than 30 years.

Proposed law prohibits monies from being appropriated for any project until July 1, 2026, and prohibits bonds, notes, or other evidences of indebtedness from being issued for any project or by any system for a project to be financed pursuant to proposed law after July 1, 2036.

Proposed law provides that the maximum amount of bonds that may be issued to finance projects pursuant to proposed law is \$1.681B, together with other requirements including but not limited to costs of issuance, if any, credit enhancement and related costs. The monies shall be allocated as follows:

- (1) The Southern University System, \$153 million.
- (2) The University of La. System, \$523 million.
- (3) The La. State University System, \$752 million.
- (4) The La. Community and Technical College System, \$253 million.

Proposed law requires the commissioner of administration to approve the cooperative endeavor agreements (CEA) entered into by the parties for any project prior to commencement of any work, including planning and design. Further requires each CEA to include an annual appropriation dependency clause.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 17:3369.1-3369.3)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Increase the amount of project costs that triggers a requirement for a public hearing prior to beginning construction or management of the project from \$250,000 to \$1 million.
2. Increase the amount of project costs that triggers a requirement for the corporation to issue a request for qualifications or request for proposals to select contractors for any project from \$250,000 to \$1 million.