

GREEN SHEET REDIGEST

HB 940

2024 Regular Session

Turner

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

DIGEST

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 "corporation" as a nonprofit corporation which may be utilized to accomplish the purposes of proposed law. The term "corporation" shall also include a limited liability company whose sole member is a nonprofit corporation.

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, utilities, site components, roads, and streets, 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 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 administered by the division of administration, office of facility planning and control. Further authorizes the board of a system to enter into agreements with one or more corporations to manage projects which shall comply with the present law provisions of Public Bid Law (R.S. 38:221 et seq.).

Proposed law requires that the selection of a corporation by the board is subject to review by and the approval of the director of the office of facility planning and control (hereinafter "director").

Proposed law requires the commissioner of administration (hereinafter "commissioner") to approve all cooperative endeavor agreements (hereinafter "CEA") entered into between the board, a corporation, and the state prior to the commencement of any planning, design, or construction activities. Further requires each CEA to set forth the requirements and responsibilities of each party and to be in accordance with the guidelines and standards of CEAs administered by FP&C.

Proposed law requires each CEA to include an annual appropriation dependency clause and provisions for the selection of designers, contractors, project managers, and other professional services prior to contracts being issued.

Proposed law requires projects to first be approved by the commissioner and then the commissioner shall submit a list of approved projects to the Joint Legislative Committee on the Budget for approval. The approvals required pursuant to proposed law shall be secured for each project prior to the expenditure of any funds for planning, design, or construction activities.

Proposed law requires the selection of designers, architects, or engineers for any project to be qualification-based selections in accordance with present law.

Proposed law requires monies to pay for the costs of projects to be disbursed by the director within 45 days of submission of project expenses to the director by the board.

Proposed law requires the board and the corporation to submit written reports every six months which contain information on the status of each project administered by them.

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

Proposed law prohibits bonds, notes, or other evidences of debt from being issued before July 1, 2026 or unless the legislature has provided an appropriation for such purpose. Further 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 \$2 billion, 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, \$1, 071,000,000.
- (4) The La. Community and Technical College System, \$253 million.

Proposed law requires the proceeds of any bonds issued to finance projects pursuant to the provisions of proposed law to be deposited into the College and University Deferred Maintenance and Capital Improvement Fund.

Proposed law creates the College and University Deferred Maintenance and Capital Improvement Fund as a special fund in the state treasury, hereinafter "fund", and provides for the deposit, transfer, or appropriation of monies into the fund.

Proposed law provides that subject to appropriation, monies in the fund shall be used solely and exclusively by the boards to pay expenses associated with addressing deferred maintenance of public facilities under the control of the board in accordance with the limitations and restrictions provided for in proposed law.

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

(Adds R.S. 17:3369.1-3369.4)

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.

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

1. Delete 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, public meetings and the posting of meeting minutes, adoption and maintenance of a policy on conflicts of interest, and the process for selection of qualified contractors.
2. Delete all requirements related to meetings of a corporation's board, conflicts of interest, and disclosure of certain information regarding financial interests in contracts under the supervision of the corporation's board.
3. Delete provisions related to contracts in excess of \$1 million, in favor of requiring the commissioner to select qualified corporations from a list of corporations submitted by the board of a system.
4. Authorize the board of a system to enter into agreements with one or more corporations to administer and manage projects.
5. Authorize the use alternative competitive procurement and delivery methods with public advertisement for the award of any contracts for the construction of any project in excess of \$1 million of total installed costs.
6. Require the commissioner and the director to approve all CEAs entered into between the board, a corporation, and the state prior to the commencement of any planning, design, or construction activities.
7. Require the CEA to set forth the requirements and responsibilities of each party and to conform to the standards of CEAs administered by FP&C.
8. Require monies to pay for the costs of projects to be disbursed by the director within 45 days of submission of project expenses to the director by the board.

9. Authorize the board of a system to undertake a project with a total installed cost of less than \$1 million if the project is approved by the board, the commissioner, and the director.
10. Require the director to monitor projects undertaken by a board.
11. Require the board and the corporation to submit written reports every six months which contains information on the status of each project administered by them.
12. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the reengrossed bill

1. Expands the definition of "corporation" to include a limited liability company whose sole member is a nonprofit corporation.
2. Expands the definition of "public facility" or "public facilities" to include utilities, site components, roads, and streets.
3. Adds provision requiring projects financed or constructed on behalf of a system to be administered by the division of administration, office of facility planning and control.
4. Authorizes the board of a system to enter into agreements with one or more corporations to manage projects which shall comply with the present law provisions of Public Bid Law.
5. Requires that the selection of a corporation by the board is subject to review by and the approval of the director of the office of facility planning and control.
6. Requires the commissioner of administration to approve all cooperative endeavor agreements entered into between the board, a corporation, and the state prior to the commencement of any planning, design, or construction activities.
7. Adds provision requiring each CEA to include provisions for the selection of designers, contractors, project managers, and other professional services prior to contracts being issued.
8. Requires projects to be approved by the commissioner and JLCB prior to the expenditure of any funds for planning, design, or construction activities.
9. Prohibits bonds, notes, or other evidences of debt from being issued before July 1, 2026 or unless the legislature has provided an appropriation for such purpose.
10. Creates the College and University Deferred Maintenance and Capital Improvement Fund and provides for the deposit, transfer, appropriation, and uses of monies in the fund.
11. Increases the maximum amount of bonds that may be issued to finance projects from \$1,681,000,000 to \$2 billion. Increases the allocation for the La. State University System from \$752,000,000 to \$1, 071,000,000.