

SENATE BILL NO. 318

BY SENATOR WOMACK

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AN ACT

To amend and reenact R.S. 39:72.1(A)(1) and R.S. 39:112(E)(4) as enacted by Section 1 of Act 82 of the 2023 Regular Session of the Legislature of Louisiana, relative to capital outlay; to provide with respect to the capital outlay process; to require a nonstate entity to maintain an escrow account for certain projects; to provide for escrow account balance requirements; to provide relative to compliance with audit requirements; to require the commissioner of administration to promulgate rules; to provide for exemptions; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:72.1(A)(1) is hereby amended and reenacted to read as follows:

§72.1. Compliance with audit requirements

A.(1) Notwithstanding any contrary provision of law, no funds appropriated directly or indirectly in the general appropriations act, the capital outlay act, or other appropriation act, or awarded from the Louisiana Department of Health Drinking Water Revolving Loan Fund, the Department of Environmental Quality Clean Water State Revolving Fund, or from the office of community development programs for Community Development Block Grants, local government assistance program, disaster recovery grants, the Community Water Enrichment and Other Improvements Fund, or similar programs, shall be released or provided to any recipient of an appropriation if, when, and for as long as, the recipient fails or refuses to comply with the provisions of R.S. 24:513 **or R.S. 39:112(E)(4)**.

\* \* \*

Section 2. R.S. 39:112(E)(4) as enacted by Section 1 of Act 82 of the 2023 Regular

1 Session of the Legislature of Louisiana is hereby amended and reenacted to read as follows:

2 §112. Capital Outlay Act

3 \* \* \*

4 E.(1) \* \* \*

5 (4)(a) ~~in~~ **Beginning on or after July 1, 2024, in** addition to the match  
6 required pursuant to the provisions of Paragraph (2) of this Subsection, a nonstate  
7 entity ~~applying for~~ **that receives** funding for construction of a new project through  
8 **the acquisition or construction of buildings through** the Capital Outlay Act shall  
9 ~~also provide documentation evidencing its ability to provide no less than three~~  
10 ~~percent of the total requested amount of funding~~ **be required to establish, fund, and**  
11 **maintain an escrow account** to be used exclusively for costs associated with the  
12 long-term **major capital** maintenance of the project. **For the purposes of this**  
13 **Paragraph, the construction of buildings shall include major repairs and**  
14 **renovations, fixed equipment connected to buildings, and equipment and**  
15 **furnishings of new buildings.**

16 **(b) The escrow account shall be a required condition of the cooperative**  
17 **endeavor agreement between the nonstate entity and the office of facility**  
18 **planning and control and shall be established prior to the first advertisement**  
19 **for bids for the project.**

20 **(c) The escrow account shall contain no less than three percent of the**  
21 **total project cost. Each year thereafter, the nonstate entity shall deposit into the**  
22 **escrow account an additional one-half percent of the total project costs until**  
23 **such time as the account balance totals ten percent of the total project cost or**  
24 **one million dollars, whichever is less. When the escrow account balance reaches**  
25 **the minimum threshold, no further deposits are required by the nonstate entity.**  
26 **However, once the minimum threshold in the escrow account is achieved, if a**  
27 **nonstate entity uses monies deposited into the escrow account for long-term**  
28 **major capital maintenance expenses and the escrow account balance decreases**  
29 **to less than five percent of the total project cost, the entity shall only be required**  
30 **to deposit monies into the escrow account in accordance with this Subparagraph**

1 until the escrow account balance reaches a minimum balance of five percent of  
2 the total project costs.

3 (d) The nonstate entity shall maintain the escrow account until the  
4 project is unoccupied or disposed of by the nonstate entity or twenty-five years,  
5 whichever is later.

6 (e) The escrow account shall be a separate interest-bearing bank account  
7 denoted as a restricted asset to be used exclusively for costs associated with the  
8 long-term major capital maintenance of the project.

9 (f) Failure of a nonstate entity to provide this documentation at the time of  
10 applying for funds through the Capital Outlay Act establish, fund, and maintain  
11 the escrow account pursuant to the provisions of this Paragraph shall result in  
12 the following actions:

13 (i) The project being deemed not feasible by the office of facility planning  
14 and control, ~~and the project~~

15 (ii) The project and all future projects submitted by the nonstate entity  
16 shall not be included in the Capital Outlay Act.

17 (iii) An audit finding of noncompliance by the legislative auditor  
18 pursuant to the provisions of R.S. 24:513 and R.S. 39:72.1.

19 (g) The division of administration shall promulgate rules and regulations  
20 in accordance with the Administrative Procedure Act, subject to oversight by  
21 the House Committee on Ways and Means and the Senate Committee on  
22 Revenue and Fiscal Affairs, as are necessary for the implementation of this  
23 Paragraph, including rules establishing the criteria of what constitutes long-  
24 term major capital maintenance of a project.

25 (h) The provisions of this Paragraph shall not apply to either of the  
26 following:

27 (i) Certain land acquisitions, large equipment acquisitions, and  
28 earthworks projects as determined by rule.

29 (ii) Nonstate entity projects exempted from local match pursuant to the  
30 provisions of Subparagraphs (2)(c) or (d) of this Subsection.

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Section 3. The provisions of this Act shall apply to any project included in the capital outlay budget for which a cooperative endeavor agreement with the state is fully executed on or after July 1, 2024.

Section 4. This Act shall become effective on July 1, 2024.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_