

2018 Regular Session

HOUSE BILL NO. 122

BY REPRESENTATIVE DEVILLIER

CAPITAL OUTLAY: Provides relative to capital outlay reform

1 AN ACT

2 To amend and reenact R.S. 39:112(C)(2)(b), (E)(1), (2)(introductory paragraph), (b) and (c),
3 and (F), and 122(A) and to enact R.S. 39:112(H), relative to capital outlay; to
4 provide with respect to the capital outlay process; to provide for certain definitions;
5 to provide for certain requirements for nonstate projects; to provide for changes to
6 the amount and allocation of cash line of credit capacity each fiscal year; to provide
7 with respect to the local match requirements for certain projects; to provide relative
8 to line of credit recommendations for projects; to require the approval of certain line
9 of credit recommendations; to require the inclusion of certain information
10 concerning state indebtedness within the capital outlay act; to provide for
11 applicability; to provide for an effective date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 39:112(C)(2)(b), (E)(1), (2)(introductory paragraph), (b) and (c), and
14 (F), and 122(A) are hereby amended and reenacted and R.S. 47:39:112(H) is hereby enacted
15 to read as follows:

16 §112. Capital outlay act

17 * * *

18 C.

19 * * *

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

3 * * *

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

8 (i) Improvements on public or government-owned property for the purposes
9 of attracting or retaining a specific new or existing manufacturing or business
10 operation that benefits Louisiana:

11 ~~(ii) Facilities or improvements on public or government-owned property and~~
12 ~~that generate~~ generates new, permanent employment or which ~~help~~ helps retain
13 existing employment.

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

16 * * *

17 E.(1)(a) General obligation bond funding of ~~non-state~~ nonstate projects shall
18 be limited to no more than twenty-five percent of the cash line of credit capacity for
19 projects in any fiscal year. ~~Non-state~~ Nonstate projects are those projects not owned
20 and operated by the state except those projects determined by the commissioner of
21 administration to be a regional economic development initiative or regional health
22 care facility operated in cooperation with the state. No project by a nongovernmental
23 entity shall be eligible for capital outlay funding. The allocation of general
24 obligation bond cash lines of credit for nonstate projects shall comply with the
25 provisions of Subparagraph (b) of this Paragraph and the allocation of general
26 obligation bond cash lines of credit for state projects shall comply with the
27 provisions of Subparagraph (c) of this Paragraph.

28 (b) Of the allocation of the general obligation bond cash lines of credit
29 granted in any fiscal year for nonstate projects, the commissioner shall divide ten

1 percent of the allocation among the parishes on a pro rata basis of population and
 2 number of homesteads in each parish in proportion to the population and number of
 3 homesteads throughout the state. The remaining fifteen percent of the general
 4 obligation bond cash lines of credit granted in any fiscal year to nonstate projects
 5 shall be prioritized to highway or bridge projects, flood control and flood prevention
 6 projects, or economic development projects. For purposes of this Subparagraph, the
 7 term "economic development project" shall mean any project undertaken by a
 8 nonstate entity which is determined by the governing authority of the parish in which
 9 the project is located to benefit the parish and which generates new, permanent
 10 employment.

11 (c) Of the allocation of general obligation bond cash lines of credit granted
 12 in any fiscal year for state projects, the commissioner shall direct no less than three
 13 million dollars of cash line of credit capacity to each Department of Transportation
 14 and Development highway district to fund projects which are deemed by the district
 15 engineer as either deferred maintenance projects or drainage projects within the
 16 geographic boundaries of each district. The allocation to highway districts may be
 17 used to fund costs for the lease or rental of movable equipment necessary for
 18 construction of deferred maintenance or drainage projects. Of the remaining general
 19 obligation bond cash lines of credit granted in any fiscal year to state projects, no
 20 less than fifty percent of the allocation shall be directed by the commissioner to fund
 21 highway and bridge projects.

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

24 * * *

25 (b) ~~A project of a non-state entity which has demonstrated its inability to~~
 26 ~~provide a local match. The division of administration shall promulgate rules~~
 27 ~~establishing a needs-based formula for determining the inability of a non-state entity~~
 28 ~~to provide the required local match. However, such rules shall be approved by the~~
 29 ~~House Committee on Appropriations, the House Committee on Ways and Means, the~~

1 ~~Senate Committee on Finance, and the Senate Committee on Revenue and Fiscal~~
2 ~~Affairs before they are promulgated.~~

3 (c) A project for a rural water system servicing less than one thousand
4 customers to extend or connect waterlines to other water systems.

5 F.(1) The annual amount of new general obligation bond cash line of credit
6 capacity shall be limited to two hundred million dollars annually adjusted for
7 construction inflation from 1994. This limit shall only be raised by a favorable vote
8 of two-thirds of the elected members of each house of the legislature. not exceed:

9 (a) For Fiscal Year 2020, three hundred million dollars.

10 (b) For Fiscal Year 2021, two hundred seventy-five million dollars.

11 (c) For Fiscal year 2022, two hundred fifty million dollars.

12 (d) For Fiscal Year 2023, and each year thereafter, two hundred twenty-five
13 million dollars.

14 (2) This limit shall be raised by a favorable vote of two-thirds of the elected
15 members of each house of the legislature, which may be accomplished by mail
16 ballot.

17 * * *

18 H. The capital outlay act shall include a statement concerning the total
19 outstanding net state tax supported debt as defined in R.S. 39:1367, as reported in the
20 most recent report by the state treasurer concerning net state tax supported debt. The
21 amounts of principle and interest payable on this indebtedness shall be reported
22 separately. Further, it shall contain an estimate of debt service costs associated with
23 the amount of new general obligation bond cash line of credit capacity for that fiscal
24 year, pursuant to Subsection F of this Section. The net state tax supported debt
25 model shall be used in the calculation of the estimate.

26 * * *

27 §122. Commencement of work

28 A. No work shall commence and no contract shall be entered into for any
29 project contained in the capital outlay act unless and until funds are available from

1 the cash sources indicated in the ~~act~~ Act or from the sale of bonds or from a line of
2 credit approved by the State Bond Commission, except contracts for Department of
3 Transportation and Development projects which are subject to the provisions of R.S.
4 48:251(D). ~~The Joint Legislative Committee on Capital Outlay~~ commissioner of
5 administration shall make recommendations to the ~~commissioner of administration~~
6 House Committee on Ways and Means and the Senate Committee on Revenue and
7 Fiscal Affairs concerning the ~~non-state~~ state and nonstate entity projects to be
8 granted lines of credit. The commissioner of administration shall submit to the ~~Joint~~
9 ~~Legislative Committee on Capital Outlay~~ House Committee on Ways and Means and
10 the Senate Committee on Revenue and Fiscal Affairs a list of state and nonstate
11 entity projects that will be submitted to the State Bond Commission that the division
12 of administration recommends for lines of credit ~~a minimum of five days prior to the~~
13 ~~submission to the State Bond Commission~~ no less than thirty days prior to the
14 meeting date of the State Bond Commission in which the lines of credit are to be
15 considered. The House Committee on Ways and Means and the Senate Committee
16 on Revenue and Fiscal Affairs shall receive the list of recommendations from the
17 division of administration and shall have discretion to either approve the list or make
18 changes to the list. The committees shall make final recommendations and shall
19 separately approve a list of projects which shall be submitted to the State Bond
20 Commission for consideration of lines of credit. Only projects which received
21 approval from both the House Committee on Ways and Means and the Senate
22 Committee on Revenue and Fiscal Affairs shall be submitted to the State Bond
23 Commission for consideration of lines of credit. For each project presented to the
24 State Bond Commission for approval of a general obligation bond cash line of credit
25 there shall be included an estimate of debt service costs associated with the the sale
26 of debt for the total project cost.

* * *

27
28 Section 2. The provisions of this Act shall be applicable to the funding of all projects
29 included in the capital outlay budget for fiscal years commencing on and after July 1, 2018.

1 Section 3. This Act shall become effective on July 1, 2018.

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 122 Reengrossed

2018 Regular Session

DeVillier

Abstract: Adds restrictions to the allocation of cash line of credit capacity for capital outlay projects and requires the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs to approve line of credit recommendations before the division of administration submits the list to the State Bond Commission for funding.

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 capital outlay budget requests 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 (DED), 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 defines the term "economic development" as follows:

- (1) Improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La.
- (2) Facilities or improvements on public or government-owned property that generate new, permanent employment or which help retain existing employment.
- (3) Facilities or infrastructure improvements on public or government-owned property necessary for a manufacturing plant or business to operate.

Proposed law changes the term to "economic development project" and defines it as a recruitment or retention project sponsored by DED or a political subdivision or other public entity which has economic development as part of its stated mission or purpose, that meets *one* of the following:

- (1) Improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La. and generates new, permanent employment or which helps retain existing employment.
- (2) Facilities or infrastructure improvements on public or government-owned property necessary for a manufacturing plant or business to operate.

Proposed law prohibits projects from nongovernmental entities from being eligible for capital outlay funding.

Present law limits general obligation bond (GOB) funding of nonstate projects to no more than 25% of the cash line of credit capacity for projects in any fiscal year.

Proposed law retains the amount of cash line of credit capacity for nonstate projects but requires the commissioner of administration (commissioner) to divide 10% of the GOB allocation of cash line of credit granted to nonstate projects on a pro rata basis of population and number of homesteads in each parish in proportion to the population and number of homesteads throughout the state. The remaining 15% of the GOB cash line of credit capacity granted to nonstate projects shall be prioritized for highway, bridge, flood control and flood prevention projects, or economic development projects as defined in proposed law. Further defines "economic development project" for purposes of proposed law.

Proposed law requires that of the portion of GOB cash line of credit capacity each fiscal year granted to state projects, the commissioner shall direct no less than \$3M to each DOTD highway district to fund projects deemed to be either deferred maintenance projects or drainage projects within the geographic boundaries of each district. Proposed law authorizes the allocation to highway districts to be used to fund costs for the lease or rental of movable equipment necessary for construction of deferred maintenance or drainage projects. Further requires the commissioner to designate no less than 50% of the remaining GOB line of credit capacity to be directed to highway and bridge projects.

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 non-state 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.

Present law requires the JLCCO to make recommendations to the commissioner concerning nonstate entity projects to be granted lines of credit. Further requires the commissioner to submit the list of projects to be recommended for lines of credit to the JLCCO a minimum of five days prior to submission of the list to the State Bond Commission (SBC).

Proposed law changes present law by requiring the commissioner to make recommendations to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs (hereinafter "committees") concerning state and nonstate entity projects to be recommended for lines of credit. Further requires the commissioner to submit the list of recommendations to the committees no less than 30 days prior to the meeting date of the SBC in which the lines of credit are to be considered for funding.

Proposed law requires the committees to make final recommendations by either approving the list of recommendations or making changes to the list. Only projects which received approval from the committees can be submitted to the SBC for consideration of funding.

Present law limits the annual amount of general obligation bond cash line of credit capacity which may be authorized by the State Bond Commission to \$200 million per year, adjusted for construction inflation from 1994. The amount may be raised by a favorable vote of 2/3rds of the elected members of each house of the legislature.

Proposed law changes present law by establishing the following specific amounts which may be authorized each year:

- (1) For Fiscal Year 2020, \$300 million.
- (2) For Fiscal Year 2021, \$275 million.
- (3) For Fiscal year 2022, \$250 million.
- (4) For Fiscal Year 2023, and each year thereafter, \$225 million.

Proposed law retains authority for a change in the limit by a favorable vote of two-thirds of the elected members of each house of the legislature and adds authority for that approval to be accomplished by mail ballot.

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 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 State Bond Commission for consideration for a general obligation bond cash line of credit.

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

Applicable to the funding of all nonstate entity projects included in the capital outlay budget for fiscal years commencing on and after July 1, 2018.

Effective July 1, 2018.

(Amends R.S. 39:112(C)(2)(b), (E)(1), (2)(intro. para.), (b) and (c), and (F), and 122(A); Adds R.S. 39:112(H))

Summary of Amendments Adopted by House

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

1. Expand the definition of "economic development project" for purposes of the capital outlay program in general to include projects by a political subdivision or other public entity which has economic development as part of its stated mission or purpose.
2. Define "economic development project" for purposes of the nonstate allocation of cash lines of credit to mean any project undertaken by a nonstate entity which is determined by the governing authority of the parish in which the project is located to benefit the parish and which generates new, permanent employment.
3. Change the committee to which the commissioner submits line of credit recommendations to and the committee required to make final line of credit

recommendations from the JLCCO to the Ways and Means and the Revenue and Fiscal Affairs committees.

The House Floor Amendments to the engrossed bill:

1. Prohibit projects by nongovernmental entities from being eligible for capital outlay funding.
2. Add flood control and flood prevention projects to the types of projects to be given priority for funding out of the general obligation bond cash lines of credit granted for nonstate entity projects.
3. Authorize the allocation to highway districts from the state portion of cash lines of credit to be used for the lease or rental of movable equipment necessary for construction of deferred maintenance or drainage projects.
4. Change the annual limit on general obligation bond cash line of credit capacity.
5. Add authority for the legislature to approve an increase in the annual limit on general obligation bond cash line of credit capacity by mail ballot.
6. Require that the capital outlay act include a statement concerning the total outstanding net state tax supported debt as well as an estimate of debt service costs associated with the amount of new general obligation bond cash line of credit capacity for that fiscal year, as provided in proposed law.
7. Require that for each project recommended to the State Bond Commission for consideration for a general obligation bond cash line of credit, there shall be an estimate of debt service costs associated with the sale of debt for the total project cost.