

2018 Regular Session

HOUSE BILL NO. 3

BY REPRESENTATIVE ABRAMSON

CAPITAL OUTLAY: Provides for the Omnibus Bond Act

1 AN ACT

2 To enact the Omnibus Bond Authorization Act of 2018, relative to the implementation of

3 a five-year capital improvement program; to provide for the repeal of certain prior

4 bond authorizations; to provide for new bond authorizations; to provide for

5 authorization and sale of such bonds by the State Bond Commission; to provide

6 relative to the submission of capital outlay applications; to provide with respect to

7 the resubmission of certain capital outlay budget requests; to require approval of the

8 commissioner of administration under certain circumstances; to require the capital

9 outlay application to include certain information; to require the submission of a

10 certificate of completion under certain circumstances; to provide relative to line of

11 credit recommendations for capital outlay projects; to require the approval of certain

12 line of credit recommendations; to provide for an effective date; and to provide for

13 related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. The legislature hereby recognizes that the Constitution of Louisiana

16 provides in Article VII, Section 11, that the governor shall present to the legislature a five-

17 year Capital Outlay Program and request implementation of the first year of such program,

18 and that the capital outlay projects approved by the legislature are to be made part of the

19 comprehensive state capital budget which shall, in turn, be adopted by the legislature.

20 Further, all projects in such budget adopted by the legislature requiring bond funds must be

21 authorized as provided in Article VII, Section 6 of the Constitution of Louisiana. The

1 legislature finds that over a period of years the legislature has enacted numerous bond
2 authorizations, but due to inflation and the requirements of specificity of amount for each
3 project, impossibility, or impracticability, many of the projects cannot be undertaken. All
4 of the unissued bonds must be listed in the financial statements of the state prepared from
5 time to time and in connection with the marketing of bonds, and are taken into account by
6 rating agencies, prospective purchasers, and investors in evaluating the investment quality
7 and credit worthiness of bonds being offered for sale. The continued carrying of the
8 aforesaid unissued bonds on the financial statements of the state under the above described
9 circumstances operates unnecessarily to the financial detriment of the state. Accordingly,
10 the legislature deems it necessary and in the best financial interest of the state to repeal all
11 Acts, except any Act authorizing the issuance of refunding bonds and Act 41 of the 2006
12 First Extraordinary Session, providing for the issuance of general obligation bonds in the
13 state which cannot be issued for the projects contemplated, and in their stead to reauthorize
14 general obligation bonds of the state for those projects deemed to be essential, and to
15 authorize new projects.

16 Section 2. It is the intent of the legislature that this Act shall constitute the Omnibus
17 Bond Authorization Act of 2018 and, together with any Act authorizing the issuance of
18 refunding bonds and Act 41 of the 2006 First Extraordinary Session, shall provide bond
19 authorization, as required by Article VII, Section 6 of the Constitution of Louisiana, for
20 those projects to be funded totally or partially by the sale of general obligation bonds and
21 included in House Bill No. 2 of the 2018 Regular Session as finally enacted into law (2018
22 Capital Outlay Act). It is the further intent of the legislature that in this year and each year
23 hereafter an Omnibus Bond Authorization Act shall be enacted providing for the repeal of
24 state general obligation bond authorizations for projects no longer found feasible or
25 desirable, the reauthorization of those bonds not sold during the prior fiscal year for projects
26 deemed to be of such priority as to warrant such reauthorization, and to enact new
27 authorization for projects found to be needed for capital improvements.

28 Section 3. Except as hereinafter provided, all prior Acts of the legislature authorizing
29 the issuance of general obligation bonds of the state of Louisiana shall be and the same are
30 hereby repealed in their entirety, including without limitation House Bill No. 3 of the 2017

1 Second Extraordinary Session of the Louisiana Legislature as finally enacted into law (2017
2 Omnibus Bond Authorization Act) and any Acts heretofore repealed with such Act. This
3 repeal shall not be applicable to any Act providing for the issuance of refunding bonds nor
4 to Act 41 of the 2006 First Extraordinary Session, and such Acts shall remain in full force
5 and effect and shall not be affected by the provisions of this Act. In addition, the repeal shall
6 not in any manner affect the validity of any bonds heretofore issued pursuant to any of the
7 bond authorizations repealed hereby.

8 Section 4. To provide funds for certain capital improvement projects the State Bond
9 Commission is hereby authorized pursuant to Article VII, Section 6 of the Constitution of
10 Louisiana to issue general obligation bonds or other general obligations of the state for
11 capital improvements for the projects, and subject to any terms and conditions set forth on
12 the issuance of bonds or the expenditure of monies for each project as is provided for in the
13 2018 Capital Outlay Act.

14 Section 5.(A) To provide funds for certain capital improvement projects authorized
15 prior to this Act and by this Act, which projects are designed to provide for reimbursement
16 of debt service on general obligation bonds, the State Bond Commission is hereby authorized
17 pursuant to Article VII, Section 6 of the Constitution of Louisiana, to issue general
18 obligation bonds of the state, hereinafter referred to as "project bonds", for capital
19 improvements for the projects and subject to any terms and conditions set forth on the
20 issuance of bonds or the expenditure of monies for each such project as provided in the 2018
21 Capital Outlay Act the terms of which require such reimbursement of debt service.

22 (B) Without affecting, restricting, or limiting the pledge herein made of the full faith
23 and credit of the state of Louisiana to the payment of the general obligation bonds authorized
24 by this Section and without affecting, restricting, or limiting the obligation of the state to pay
25 the same from monies pledged and dedicated to and paid into the Bond Security and
26 Redemption Fund, but in order to decrease the possible financial burden on the general funds
27 of the state resulting from this pledge and obligation, the applicable management board,
28 governing body, or state agency for which any of such project bonds are issued, in the fiscal
29 year in which such project bonds are issued and in each fiscal year thereafter until such
30 project bonds and the interest thereon are paid, shall transfer and make available to the state

1 treasury, for deposit in the Bond Security and Redemption Fund, designated student fees or
2 revenues or other revenues in an amount equal to the debt service on such project bonds in
3 such fiscal year. In addition, the applicable management board, governing body, or state
4 agency, in the fiscal year in which such project bonds are issued and in each of the nine
5 immediately succeeding fiscal years thereafter, shall transfer and make available to the state
6 treasury from designated student fees or revenues or other revenues, for credit to a
7 reimbursement reserve account for such project bonds which shall be established in an
8 account designated in the reimbursement contract hereafter provided for, monies in an
9 amount equal to one-tenth of the average annual debt service on such project bonds, and
10 each such reimbursement reserve account thereafter shall be maintained in said minimum
11 amount by further transfers, if necessary, from designated student fees or revenues or other
12 revenues by the applicable management board, governing body, or state agency to the state
13 treasury. Each such reimbursement reserve account shall be used, if necessary, solely to
14 make the reimbursement payments herein obligated to be made to the state treasury. When
15 the general obligation bonds and the interest thereon issued hereunder have been paid, any
16 amount remaining in the reimbursement reserve account, as prorated to such authorized
17 project, shall be transferred by the state treasurer to the applicable management board,
18 governing body, or state agency.

19 (C) No project bonds authorized by this Section shall be issued for any authorized
20 project unless and until a reimbursement contract has been entered into and executed
21 between the applicable management board, governing body, or state agency and the State
22 Bond Commission pertaining to the reimbursement payment and reimbursement reserve
23 account payments for such project. The contract shall require payment into the state treasury
24 of designated student fees or revenues or other revenues in an amount sufficient to reimburse
25 the cost to the state of the principal, interest, and premium, if any, obligated to be paid by
26 the state on such project bonds. The State Bond Commission shall not be required to
27 execute any such reimbursement contract unless the estimates and projections of the
28 designated student fees or revenues or other revenues available for payment into the state
29 treasury thereunder for the authorized projects are sufficient to reimburse the costs of the
30 principal, interest, and premium, if any, on the project bonds. A reimbursement contract

1 hereunder shall be authorized by resolution of the applicable management board, governing
2 body, or state agency, or board or by act of the chief executive officer if no governing board
3 exists.

4 This authorization shall provide for the dates, amounts, and other details for the
5 payments required to be made to the state treasury and for the reserve account. The
6 authorization may contain such covenants with the State Bond Commission regarding the
7 fixing of rates for fees and charges or revenues and such other covenants and agreements
8 with the State Bond Commission as will assure the required payments to the state treasury.
9 The contract shall be subject to approval by the Office of the Attorney General and the State
10 Bond Commission and, when so accepted and approved, shall conclusively constitute and
11 be the reimbursement contract for an authorized project, as required hereunder.

12 (D) The obligation to make the reimbursement payments as required by a
13 reimbursement contract may be represented by the issuance by the applicable management
14 board, governing body, or state agency of its nonnegotiable revenue obligation in the form
15 of a bond or other evidence of indebtedness, hereinafter referred to as "reimbursement
16 bond". The reimbursement bond shall be issued in a single bond form, without coupons, in
17 the principal amount equal to the aggregate principal amount of project bonds, shall be
18 registered in principal and interest in the name of and be payable to the State Bond
19 Commission, shall bear interest at a rate or rates equal to the interest rate or rates payable
20 on the project bonds, and shall be payable as to principal and interest at such times, in such
21 manner, from designated student fees or revenues, or other revenues, and be subject to such
22 terms and conditions as shall be provided in the authorizing resolution or document executed
23 by a chief executive officer, where applicable. This authorization shall be subject to
24 approval by the State Bond Commission and the Office of the Attorney General, and when
25 so accepted and approved, the authorization shall constitute and be the reimbursement
26 contract for such authorized project, as required hereunder. The reimbursement bonds
27 authorized under the provisions of this Section may be issued on a parity with outstanding
28 reimbursement bonds of the applicable management board, governing body, or state agency,
29 or issued on a subordinate lien basis to outstanding bonds, or a combination thereof, and may
30 include and contain such covenants with the State Bond Commission for the security and

1 payment of the reimbursement bonds and such other customary provisions and conditions
2 for their issuance by the applicable management board, governing body, or state agency as
3 are authorized and provided for by general law and by this Section. Until project bonds for
4 an authorized project have been paid, the applicable management board, governing body,
5 or state agency shall impose fees and charges in an amount sufficient to comply with the
6 covenants securing outstanding bonds and to make the payments required by the
7 reimbursement contract.

8 (E) In addition to the other payments herein required, reimbursement contracts shall
9 provide for the setting aside of sufficient student fees or revenues or other revenues in a
10 reserve fund, so that within a period of not less than ten years from date of issuance of
11 project bonds there shall be accumulated in a reserve fund monies equal to a sum not less
12 than the average annual debt service requirements on such project bonds. Monies in the
13 reserve fund shall be used for the purpose of remedying or preventing a default in making
14 the required payments under a reimbursement contract. The reserve fund required
15 hereunder may consist of a reserve fund heretofore or hereafter established to secure
16 payments for reimbursement bonds of the applicable management board, governing body,
17 or state agency, provided that (1) payments from said reserve fund to secure the payments
18 required to be made under a reimbursement contract shall be on a parity with the payments
19 to be made securing outstanding bonds and additional parity bonds and (2) no additional
20 parity reimbursement bonds shall be issued except pursuant to the establishment and
21 maintenance of an adequate reserve fund as approved by the State Bond Commission.

22 (F) When the balance of reimbursement bond proceeds, for a project, are allocated
23 to another project, the State Bond Commission is authorized to make the appropriate
24 amendment to the reimbursement contract with the agency making the reimbursement
25 payments.

26 Section 6. The bonds authorized to be sold by the State Bond Commission pursuant
27 to this Act shall be issued and sold in conformity with the provisions of Article VII, Section
28 6 of the Louisiana Constitution, R.S. 39:1361 through R.S. 39:1367, and R.S. 39:1401
29 through R.S. 39:1430.1, and any amendments thereto adopted prior to, at the same time as,
30 or subsequent to, the effective date of this Act. However, the provisions of R.S. 39:1365(9)

1 shall not apply to any bonds issued hereunder in the form of variable rate and/or tender
2 option bonds and that said bonds need not be issued in serial form and may mature in such
3 year or years as may be specified by the State Bond Commission. Should any provision of
4 this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the
5 provision of this Act shall govern. In connection with the issuance of the bonds authorized
6 hereby, the State Bond Commission may, without regard to any other laws of the state
7 relating to the procurement of services, insurance, or facilities, enter into contracts upon such
8 terms as it deems advantageous to the state for (1) the obtaining of credit enhancement or
9 liquidity devices designed to improve the marketability of the bonds and (2) if the bonds are
10 structured as variable rate and/or tender option bonds to provide the services and facilities
11 required for or deemed appropriate by the State Bond Commission for such type of bonds,
12 including those of tender agents, placement agents, indexing agents, remarketing agents,
13 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or
14 liquidity devices and fees for other services set forth in this Section shall, if authorized by
15 the State Bond Commission, be paid from the Bond Security and Redemption Fund as a
16 requirement with respect to the issuance of the bonds authorized hereby. The bonds shall be
17 general obligations of the state of Louisiana, to the payment of which, as to principal,
18 premium, if any, and interest, as and when the same become due, the full faith and credit of
19 the state is hereby irrevocably pledged. These bonds shall be secured by monies in the Bond
20 Security and Redemption Fund and shall be payable on a parity with bonds and other
21 obligations heretofore and hereafter issued which are secured by that fund. The maximum
22 interest rate or rates on such bonds, and their maturities, shall be determined by the State
23 Bond Commission. The state treasurer shall invest all bond proceeds until disbursed.

24 Section 7. Unless specifically repealed, this Act shall expire, and be considered null
25 and void and of no further effect on June 30, 2019, except as to any bonds authorized herein
26 (1) which have been sold, (2) to which lines of credit have been issued, or (3) for which
27 contracts for construction have been signed.

28 Section 8. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects
29 included within Section (1)(A) of House Bill No. 2 of the 2018 Regular Session of the
30 Legislature are hereby deemed to have timely submitted capital outlay budget request

1 applications for Fiscal Year 2018-2019 and to have complied with the late approval
2 requirements of R.S. 39:112(C), and as such shall be eligible for cash and noncash lines of
3 credit for Fiscal Year 2018-2019. Beginning in Fiscal Year 2019-2020 all projects shall
4 comply with the provisions of R.S. 39:101(A) and 112(C).

5 Section 9. Notwithstanding the provisions of R.S. 39:101(A) and 112(C), projects
6 included within Section (1)(B) of House Bill No. 2 of the 2018 Regular Session of the
7 Legislature are hereby deemed to have until June 30, 2018, to submit a capital outlay budget
8 request application pursuant to R.S. 39:101(A) and if the application is submitted by that
9 date, the project is deemed to have complied with the late approval requirements of R.S.
10 39:112(C). Beginning in Fiscal Year 2019-2020, all projects shall comply with the
11 provisions of R.S. 39:101(A) and 112(C).

12 Section 10.(A) The office of facility planning and control shall revise the capital
13 outlay application for entities applying for capital outlay funding for Fiscal Year 2019-2020
14 and thereafter, to include information regarding the status of the project and the amount of
15 any outstanding obligations for the project. If construction of a project is complete, the
16 entity which received capital outlay funding shall submit a certificate of completion to the
17 office of facility planning and control within one year of completion of construction of the
18 project. Any entity that receives cash lines of credit for any portion of design, planning, or
19 construction of a capital outlay project that fails to timely submit a certificate of completion
20 shall be ineligible for future capital outlay funding unless the entity receives approval of
21 both the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs
22 Committee.

23 (B) Beginning in Fiscal Year 2019-2020, the office of facility planning and control
24 shall include in any report submitted to the Joint Legislative Committee on Capital Outlay
25 pursuant to the provisions of R.S. 39:105 information regarding the amount of local match
26 required to be provided by a nonstate entity requesting capital outlay funding for each
27 project application and whether the local match requirement has been waived by the office
28 of facility planning and control. If a local match requirement has been waived by the office
29 of facility planning and control, the report shall also include the rationale and basis for the
30 waiver.

1 Section 11. Notwithstanding the provisions of R.S. 39:122, for Fiscal Year 2018-
2 2019, the commissioner of administration shall make recommendations to the House
3 Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs
4 concerning the state and nonstate entity projects to be granted lines of credit. The
5 commissioner of administration shall submit to the House Committee on Ways and Means
6 and the Senate Committee on Revenue and Fiscal Affairs a list of state and nonstate entity
7 projects that the division of administration recommends for lines of credit no less than thirty
8 days prior to the meeting date of the State Bond Commission in which the lines of credit are
9 to be considered. The House Committee on Ways and Means and the Senate Committee on
10 Revenue and Fiscal Affairs shall receive the list of recommendations from the division of
11 administration and shall have discretion to either approve the list or make changes to the list.
12 The committees shall make final recommendations and shall separately approve a list of
13 projects which shall be submitted to the State Bond Commission for consideration of lines
14 of credit. Only projects which received approval from both the House Committee on Ways
15 and Means and the Senate Committee on Revenue and Fiscal Affairs shall be submitted to
16 the State Bond Commission for consideration of lines of credit.

17 Section 12. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

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 3 Engrossed

2018 Regular Session

Abramson

Abstract: Provides for the implementation of a five-year capital improvement program.

Provides for the implementation of a five-year capital improvement program; provides for the repeal of certain prior bond authorizations; provides for new bond authorizations; provides for authorization and sale of such bonds by the State Bond Commission; and provides for related matters.

Proposed law deems projects included in Section (1)(A) of HB No. 2 of the 2018 R.S. to have timely submitted capital outlay budget request applications for FY 2018-2019 and to

have complied with the late approval requirements of present law. Further authorizes these projects to be eligible for lines of credit for FY 2018-2019.

Proposed law deems projects included in Section (1)(B) of HB No. 2 of the 2018 R.S. to have until June 30, 2018, to submit capital outlay budget request applications and if the project application is submitted by that date, the project is deemed to have complied with late approval requirements in present law.

Proposed law requires the office of facility planning and control (FP&C) to revise the capital outlay application to include information regarding the status of the project and the amount of any outstanding obligations for the project. Further requires an entity to submit a certificate of completion to FP&C within one year of completion of construction of the project. Any entity that fails to timely submit a certificate of completion shall be ineligible for future capital outlay funding unless the entity receives approval of both the House Ways and Means and the Senate Revenue and Fiscal Affairs committees, hereinafter "legislative committees".

Proposed law requires FP&C to include in reports submitted to the Joint Legislative Committee on Capital Outlay (JLCCO) pursuant to present law, information regarding the amount of local match required to be provided by a nonstate entity and whether the local match requirement has been waived by FP&C. If a local match requirement has been waived by FP&C, the report shall also include the rationale and basis for the waiver.

Proposed law requires, for Fiscal Year 2018-2019, the commissioner of administration to make recommendations to the legislative committees concerning the state and nonstate entity projects to be granted lines of credit and to submit the list of recommendations to the legislative committees no less than 30 days prior to the meeting date of the State Bond Commission (SBC) in which the lines of credit are to be considered. Proposed law authorizes the legislative committees to make changes to the list but to separately approve the list of projects which shall be submitted to the SBC for consideration of lines of credit. Only projects which received approval from both legislative committees shall be submitted to the SBC for consideration of lines of credit.

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

Summary of Amendments Adopted by House

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

1. Deem projects included in Section (1)(A) of HB No. 2 of the 2018 R.S. to have timely submitted capital outlay budget request applications for FY 2018-2019 and to have complied with the late approval requirements of present law.
2. Deem projects included in Section (1)(B) of HB No. 2 of the 2018 R.S. to have until June 30, 2018, to submit capital outlay budget request applications and if the project application is submitted by that date, the project is deemed to have complied with late approval requirements in present law.
3. Require FP&C to revise the capital outlay application to include information regarding the status of a project and the amount of any outstanding obligations for the project.
4. Add requirements regarding submission of a certificate of completion within one year of completion of construction of the project. Any entity which fails to timely submit a certificate of completion shall be ineligible for future capital outlay funding unless the entity receives approval of both legislative committees.

5. Require FP&C to include in reports submitted to the JLCCO, information regarding the amount of local match required to be provided by a nonstate entity and whether the local match requirement has been waived by FP&C.
6. Specify the process for Fiscal Year 2018-2019 for submission of and approval of line of credit recommendations to the SBC.