

2020 Second Extraordinary Session

HOUSE BILL NO. 7

BY REPRESENTATIVE DEVILLIER

CAPITAL OUTLAY: Provides relative to the capital outlay process and certain reporting requirements (Item #15)

1 AN ACT

2 To amend and reenact R.S. 39:105(A), 112(A), (B), (C)(1)(introductory paragraph) and
3 (2)(b), (D), (E)(2)(introductory paragraph), and (G)(1) and (2), and 115(A) and (B),
4 to enact R.S. 39:112(H), and to repeal R.S. 39:112(E)(2)(b), relative to capital
5 outlay; to provide with respect to the capital outlay process; to provide for certain
6 definitions; to provide for certain requirements for nonstate projects; to provide with
7 respect to the local match requirements for certain projects; to provide for certain
8 notifications; to require certain reports; to require the inclusion of certain information
9 concerning state indebtedness within the Capital Outlay Act; to require certain
10 projects to be included in the Capital Outlay Act or obtain legislative approval; to
11 provide for applicability; to provide for an effective date; and to provide for related
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 39:105(A), 112(A), (B), (C)(1)(introductory paragraph) and (2)(b),
15 (D), (E)(2)(introductory paragraph), and (G)(1) and (2), and 115(A) and (B) are hereby
16 amended and reenacted and R.S. 39:112(H) is hereby enacted to read as follows:

17 §105. Capital Outlay reports to Joint Legislative Committee on Capital Outlay

18 A.(1) The office of facility planning and control and any state agency
19 authorized to administer capital outlay appropriations shall submit to the Joint
20 Legislative Committee on Capital Outlay, an annual written report no later than the

1 first day of February. The report shall include the following information for of each
2 project included in the prior year's capital outlay budget ~~which includes the~~
3 ~~following information:~~

4 ~~(1)~~(a) The title of the project.

5 ~~(2)~~(b) The total budget for the project from all means of financing.

6 ~~(3)~~(c) A breakdown of the funding of the project including all cash and
7 general obligation bond funding of the project.

8 ~~(4)~~(d) The amount of state and local funds, including local match funds,
9 expended on the project.

10 ~~(5)~~(e) The amount of project funding that has been encumbered, including
11 all cash and general obligation bond cash and noncash lines of credit approved for
12 the project.

13 ~~(6)~~(f) The total amount of funds the project will need to spend in the next
14 fiscal year.

15 ~~(7)~~(g) The current status of the project as either active or complete.

16 ~~(8)~~(h) If the project is complete, the total amount of unspent appropriations
17 remaining on the project, including the means of finance of the funds.

18 (2) All projects which are funded through a cash means of finance or which
19 received advance funding in a bond sale shall also be included in the annual report
20 required in Paragraph (1) of this Subsection regardless of whether the project was in
21 the prior year's capital outlay budget. Additionally, these projects shall continue to
22 be included in each annual report until a certificate of completion for the project has
23 been issued by the agency administering the project.

24 * * *

25 §112. Capital ~~outlay act~~ Outlay Act

26 A. The legislature shall enact into law a capital outlay bill which shall
27 incorporate the first year of the five-year capital outlay program as provided in
28 Article VII, Section 11(C) of the Constitution of Louisiana. The ~~capital outlay act~~
29 Capital Outlay Act shall include appropriation of funds from specified sources,

1 including proceeds of bonds, for capital projects to be expended during the next
2 fiscal year.

3 B. All projects included within any ~~capital outlay act~~ Capital Outlay Act,
4 under penalty of nullity, shall have been proposed, reviewed, and evaluated in
5 accordance with the requisites contained in Subpart A of this Part. The office of
6 facility planning and control shall make the determination as to compliance with
7 Subpart A of this Part and shall report those findings to the Joint Legislative
8 Committee on Capital Outlay, the House Committee on Appropriations, the House
9 Committee on Ways and Means, the Senate Committee on Finance, and the Senate
10 Committee on Revenue and Fiscal Affairs.

11 C.(1) Capital outlay budget requests submitted after November first may be
12 included within the ~~capital outlay act~~ Capital Outlay Act if the capital outlay budget
13 request meets all of the applicable requirements as provided in R.S. 39:101 and 102
14 except for time of submission and if any of the following conditions have been met:

15 * * *

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

18 * * *

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

23 (i) Improvements on public or government-owned property for the purposes
24 of attracting or retaining a specific new or existing manufacturing or business
25 operation that ~~benefits~~ benefit Louisiana; ~~and~~

26 (ii) ~~Facilities or improvements on public or government-owned property that~~
27 generate new, permanent employment or ~~which~~ that help retain existing employment.

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 7 Original

2020 Second Extraordinary Session

DeVillier

Abstract: Adds reporting requirements for capital outlay projects, requires projects funded through the issuance of debt to be included in the Capital Outlay Act, and eliminates the needs-based exemption from the local match requirement for nonstate entity projects.

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, hereinafter "the 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 requires the office of facility planning and control and any state agency which administers capital outlay appropriations to submit annual reports to the Joint Legislative Committee on Capital Outlay of each project included in the prior year's capital outlay budget. The report includes information such as the project title, the total project budget from all means of financing, including state and local funds, local match information, information on funds expended and encumbered on the project, and the project's status.

Proposed law retains present law but adds a requirement that the information required to be reported in present law shall also be reported on projects which may no longer be in the prior year's capital outlay budget because the project received funding through a cash means of finance or from advance bond sales. Further requires this information to continue to be reported until a certificate of completion has been issued by the agency administering the project.

Present law provides for specific criteria that a project must meet in order to be considered an "economic development project". Criteria include projects such as improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation that benefits La. or facilities or improvements on public or government-owned property that generate new, permanent employment or which help retain existing employment.

Proposed law specifies that the improvements on public or government-owned property for attracting or retaining a new or existing manufacturing or business operation must benefit La. and generate new, permanent employment or help retain existing employment.

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. Requires the establishment of a needs-based formula for determining the inability of a nonstate 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 projects funded through the sale of bonds and secured by or payable from state appropriation to be included in the Act or if not included in the Act to be approved between sessions by the division of administration submitting those projects to the Interim Emergency Board for approval by a majority vote of the elected members of each house of the legislature. Further requires, following legislative approval, that requests to sell bonds be submitted to the State Bond Commission (SBC) for review and approval.

Proposed law retains present law regarding legislative approval and submission to the SBC for review and approval but changes the projects which are required to go through this approval process from projects funded through the sale of bonds to projects funded through the issuance of debt or other agreements including agreements of lease, lease-purchase, or third-party financing.

Present law requires the office of facility planning and control to send notice to all nonstate entities of the need to resubmit a capital outlay budget request for projects that do not receive a line of credit prior to Sept. 15th for the total amount of bond proceeds authorized in the Act for that fiscal year. Further requires the notice to also be sent to each state representative and state senator who represents the geographic area of the project.

Proposed law retains present law but specifies that the notice is to be sent if the project has not received *or been recommended* for a line of credit prior to Sept. 15th of each year.

Present law establishes various requirements for content to be included in the Act.

Proposed law retains present law and adds a requirement that the 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 Act shall contain an estimate of debt service costs associated with the amount of new GOB 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 SBC for consideration for a GOB cash line of credit.

Proposed law retains present law and requires that for each project presented to the SBC 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, 2021.

Effective July 1, 2021.

(Amends R.S. 39:105(A), 112(A), (B), (C)(1)(intro. para.) and (2)(b), (D), (E)(2)(intro. para.), and (G)(1) and (2), and 115(A) and (B); Adds R.S. 39:112(H); Repeals R.S. 39:112(E)(2)(b))