

2016 Second Extraordinary Session

HOUSE BILL NO. 56

BY REPRESENTATIVE BROADWATER

CAPITAL OUTLAY: Provides for the Omnibus Bond Act (Item #4)

1 AN ACT

2 To enact the Omnibus Bond Authorization Act of 2016 and to repeal the Act which  
3 originated as House Bill No. 3 of the 2016 Regular Session of the Legislature,  
4 relative to the implementation of a five-year capital improvement program; to  
5 provide for the repeal of certain prior bond authorizations; to provide for new bond  
6 authorizations; to provide for authorization and sale of such bonds by the State Bond  
7 Commission; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. The legislature hereby recognizes that the Constitution of Louisiana  
10 provides in Article VII, Section 11, that the governor shall present to the legislature a five-  
11 year Capital Outlay Program and request implementation of the first year of such program,  
12 and that the capital outlay projects approved by the legislature are to be made part of the  
13 comprehensive state capital budget which shall, in turn, be adopted by the legislature.  
14 Further, all projects in such budget adopted by the legislature requiring bond funds must be  
15 authorized as provided in Article VII, Section 6 of the Constitution of Louisiana. The  
16 legislature finds that over a period of years the legislature has enacted numerous bond  
17 authorizations, but due to inflation and the requirements of specificity of amount for each  
18 project, impossibility, or impracticability, many of the projects cannot be undertaken. All  
19 of the unissued bonds must be listed in the financial statements of the state prepared from  
20 time to time and in connection with the marketing of bonds, and are taken into account by

1 rating agencies, prospective purchasers, and investors in evaluating the investment quality  
2 and credit worthiness of bonds being offered for sale. The continued carrying of the  
3 aforesaid unissued bonds on the financial statements of the state under the above described  
4 circumstances operates unnecessarily to the financial detriment of the state. Accordingly,  
5 the legislature deems it necessary and in the best financial interest of the state to repeal all  
6 Acts, except any Act authorizing the issuance of refunding bonds and Act 41 of the 2006  
7 First Extraordinary Session, providing for the issuance of general obligation bonds in the  
8 state which cannot be issued for the projects contemplated, and in their stead to reauthorize  
9 general obligation bonds of the state for those projects deemed to be essential, and to  
10 authorize new projects.

11 Section 2. It is the intent of the legislature that this Act shall constitute the Omnibus  
12 Bond Authorization Act of 2016 and, together with any Act authorizing the issuance of  
13 refunding bonds and Act 41 of the 2006 First Extraordinary Session, shall provide bond  
14 authorization, as required by Article VII, Section 6 of the Constitution of Louisiana, for  
15 those projects to be funded totally or partially by the sale of general obligation bonds and  
16 included in House Bill No. 2 of the 2016 Second Extraordinary Session as finally enacted  
17 into law (2016 Capital Outlay Act). It is the further intent of the legislature that in this year  
18 and each year hereafter an Omnibus Bond Authorization Act shall be enacted providing for  
19 the repeal of state general obligation bond authorizations for projects no longer found  
20 feasible or desirable, the reauthorization of those bonds not sold during the prior fiscal year  
21 for projects deemed to be of such priority as to warrant such reauthorization, and to enact  
22 new authorization for projects found to be needed for capital improvements.

23 Section 3. Except as hereinafter provided, all prior Acts of the legislature authorizing  
24 the issuance of general obligation bonds of the state of Louisiana shall be and the same are  
25 hereby repealed in their entirety, including without limitation House Bill No. 3 of the 2015  
26 Regular Session of the Louisiana Legislature as finally enacted into law (2015 Omnibus  
27 Bond Authorization Act) and any Acts heretofore repealed with such Act. This repeal shall  
28 not be applicable to any Act providing for the issuance of refunding bonds nor to Act 41 of  
29 the 2006 First Extraordinary Session, and such Acts shall remain in full force and effect and

1 shall not be affected by the provisions of this Act. In addition, the repeal shall not in any  
2 manner affect the validity of any bonds heretofore issued pursuant to any of the bond  
3 authorizations repealed hereby.

4 Section 4. To provide funds for certain capital improvement projects the State Bond  
5 Commission is hereby authorized pursuant to Article VII, Section 6 of the Constitution of  
6 Louisiana to issue general obligation bonds or other general obligations of the state for  
7 capital improvements for the projects, and subject to any terms and conditions set forth on  
8 the issuance of bonds or the expenditure of monies for each project as is provided for in the  
9 2016 Capital Outlay Act.

10 Section 5.(A) To provide funds for certain capital improvement projects authorized  
11 prior to this Act and by this Act, which projects are designed to provide for reimbursement  
12 of debt service on general obligation bonds, the State Bond Commission is hereby authorized  
13 pursuant to Article VII, Section 6 of the Constitution of Louisiana, to issue general  
14 obligation bonds of the state, hereinafter referred to as "project bonds", for capital  
15 improvements for the projects and subject to any terms and conditions set forth on the  
16 issuance of bonds or the expenditure of monies for each such project as provided in the 2016  
17 Capital Outlay Act the terms of which require such reimbursement of debt service.

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

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

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

1 body, or state agency, or board or by act of the chief executive officer if no governing board  
2 exists.

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

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

1 or subsequent to, the effective date of this Act. However, the provisions of R.S. 39:1365(9)  
2 shall not apply to any bonds issued hereunder in the form of variable rate and/or tender  
3 option bonds and that said bonds need not be issued in serial form and may mature in such  
4 year or years as may be specified by the State Bond Commission. Should any provision of  
5 this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the  
6 provision of this Act shall govern. In connection with the issuance of the bonds authorized  
7 hereby, the State Bond Commission may, without regard to any other laws of the state  
8 relating to the procurement of services, insurance, or facilities, enter into contracts upon such  
9 terms as it deems advantageous to the state for (1) the obtaining of credit enhancement or  
10 liquidity devices designed to improve the marketability of the bonds and (2) if the bonds are  
11 structured as variable rate and/or tender option bonds to provide the services and facilities  
12 required for or deemed appropriate by the State Bond Commission for such type of bonds,  
13 including those of tender agents, placement agents, indexing agents, remarketing agents,  
14 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or  
15 liquidity devices and fees for other services set forth in this Section shall, if authorized by  
16 the State Bond Commission, be paid from the Bond Security and Redemption Fund as a  
17 requirement with respect to the issuance of the bonds authorized hereby. The bonds shall be  
18 general obligations of the state of Louisiana, to the payment of which, as to principal,  
19 premium, if any, and interest, as and when the same become due, the full faith and credit of  
20 the state is hereby irrevocably pledged. These bonds shall be secured by monies in the Bond  
21 Security and Redemption Fund and shall be payable on a parity with bonds and other  
22 obligations heretofore and hereafter issued which are secured by that fund. The maximum  
23 interest rate or rates on such bonds, and their maturities, shall be determined by the State  
24 Bond Commission. The state treasurer shall invest all bond proceeds until disbursed.

25 Section 7. Unless specifically repealed, this Act shall expire, and be considered null  
26 and void and of no further effect on June 30, 2017, except as to any bonds authorized herein  
27 (1) which have been sold, (2) to which lines of credit have been issued, or (3) for which  
28 contracts for construction have been signed.

1 Section 8. The Act which originated as House Bill No. 3 of the 2016 Regular  
2 Session of the Legislature is hereby repealed in its entirety.

3 Section 9. This Act shall become effective upon signature by the governor or, if not  
4 signed by the governor, upon expiration of the time for bills to become law without signature  
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
7 effective on the day following such approval.

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#### 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)]

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HB 56 Original

2016 Second Extraordinary Session

Broadwater

**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.

Repeals the Act that originated as HB No. 3 of the 2016 R.S. of the Legislature.

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