

2017 Regular Session

HOUSE BILL NO. 598

BY REPRESENTATIVES ABRAMSON (BY REQUEST), BROADWATER,
GAROFALO, AND JIM MORRIS

1 AN ACT

2 To amend and reenact R.S. 48:229.1(B) and (C), 231(A)(5) and (6) and (B), and 232 and to
3 enact R.S. 48:229.1(A)(9), (10), and (11), and (H) and 229.2, relative to the
4 construction and funding of highways; to provide with respect to the Highway
5 Priority Program; to require that certain information be included in the Highway
6 Priority Program; to provide for the priority process; to require certain annual audits
7 of funding; to require annual reports; to provide for certain requirements and
8 limitations; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 48:229.1(B) and (C), 231(A)(5) and (6) and (B), and 232 are hereby
11 amended and reenacted and R.S. 48:229.1(A)(9), (10), and (11), and (H) and 229.2 are
12 hereby enacted to read as follows:

13 §229.1. Statewide prioritization process for the Highway Priority Program

14 A. The legislature declares it to be in the public interest that a prioritization
15 process for construction be utilized to develop a Highway Priority Program that
16 accomplishes the following:

17 * * *

18 (9) Utilizes taxes levied on gasoline, motor fuels, and special fuels which are
19 deposited into the Transportation Trust Fund and dedicated solely and exclusively
20 for the costs associated with construction and maintenance of state and federal roads
21 and bridges and used by the Department of Transportation and Development in the

1 most cost-effective manner to ensure that the state is getting a positive return on the
2 investment of state and federal funds in transportation projects.

3 (10) Maximizes state and federal transportation funding on costs related to
4 the actual construction and maintenance of highway and bridge projects and
5 minimizes the use of these funds on administrative costs of the Department of
6 Transportation and Development.

7 (11) In cases where Priority A and Priority B mega-projects designated in
8 the Department of Transportation and Development's Statewide Transportation Plan
9 would be prioritized equally based on the criteria set forth in Paragraphs (1) through
10 (10) of this Subsection, the department shall give consideration when prioritizing
11 these projects to mega-projects for which funding has been made available by
12 sources other than the state or federal government.

13 B.(1) Beginning with the Highway Priority Program for Fiscal Year ~~2017-~~
14 ~~2018~~ 2018-2019 and for each Highway Priority Program thereafter, the department
15 shall provide the legislature and public with this program which shall list projects to
16 be constructed in the ensuing fiscal year in an order of priority that is determined
17 after projects selected pursuant to Subsection C of this Section are analyzed and
18 prioritized based upon the factors set forth in Subsection A of this Section.

19 (2) In addition to the requirements of Paragraph (1) of this Subsection, the
20 department shall establish a multi-year time line on the projects to be funded through
21 the Highway Priority Program each year including an indication of the source of
22 monies from which project costs will be funded.

23 C.(1) The projects to be included in the Highway Priority Program shall be
24 selected utilizing a process based on an objective analysis that considers, at
25 minimum, the following factors relative to the cost of the project and anticipated
26 revenues to be appropriated by the legislature:

27 ~~(+)~~ (a) The condition of the roads, streets, and structures making up the state
28 highway system and the relative urgency of the improvements considering ~~in~~ their

1 order of general needs. For purposes of this Paragraph, "condition" shall include but
2 not be limited to the state of repair of the existing roadway and shoulder surfaces,
3 structures and drainage, and other factors of the roadway, such as signs, signals,
4 markings, and barriers.

5 ~~(2)~~ (b) The type and volume of traffic on a particular segment of roadway,
6 highway, or bridge.

7 ~~(3)~~ (c) The crash records for a particular segment of roadway, highway, or
8 bridge.

9 ~~(4)~~ (d) The technical difficulties in the preparation of plans and the
10 procurement of rights-of-way for a particular segment of roadway, highway, or
11 bridge.

12 ~~(5)~~ (e) Whether unforeseeable emergencies such as floods have created an
13 immediate need for improvement or reconstruction.

14 ~~(6)~~ (f) Whether capacity improvements are warranted due to population or
15 traffic volume increases in specific geographic areas.

16 ~~(7)~~ (g) Whether ~~or not~~ the highway or bridge is or will be on an evacuation
17 route utilized to evacuate large populations due to catastrophic events such as
18 hurricanes or flooding.

19 ~~(8)~~ (h) Whether the improvement to or addition of a highway or bridge will
20 benefit the economic development potential of the state.

21 (i) Whether the highway or bridge project will support the needs of the local
22 and regional authorities with responsibility for transportation planning to ensure that
23 there is an equitable distribution among and between the different regions of the state
24 over a three-year period.

25 (2) The Department of Transportation and Development shall submit
26 performance progress reports including the performance objectives, indicators, and
27 standards used by the department to determine the efficiency and effectiveness of the
28 priority of projects in the Highway Priority Program. Such reports shall be submitted
29 and maintained through the electronic performance database maintained and used by

1 the division of administration to track state agency performance standards as well as
2 included on the department's webpage.

3 (3) Beginning with the Highway Priority Program for Fiscal Year 2018-2019
4 and for each Highway Priority Program thereafter, the department shall apply the
5 prioritization factors provided for in this Subsection and begin to prioritize all
6 projects in the Highway Priority Program which are at the stage of project delivery
7 where sources of funding are being identified.

8 (4) Beginning with the Highway Priority Program for Fiscal Year 2018-2019
9 and for each Highway Priority Program thereafter, the department shall prioritize all
10 projects included in the Highway Priority Program into two separate lists as follows:

11 (a)(i) The first list shall include a three-year plan for all projects in the
12 program where funding is programmed based on the anticipated and projected
13 revenues available for design or scheduled to be bid for construction in that fiscal
14 year. Each year, as projects are completed from this list, they shall be deleted and
15 replaced with projects from the list required in Subparagraph (b) of this Paragraph
16 beginning with the highest level of priority. The department shall devise a detailed
17 schedule of project delivery for all projects on this list which shall include at a
18 minimum, the stage of project delivery, the scheduled letting date, and estimated
19 completion date, associated costs, and funding sources for each phase.

20 (ii) Each year, the department shall publish the list required in Subparagraph
21 (a) of this Paragraph with notations regarding whether the scheduled letting date for
22 each project is on-schedule, ahead of schedule, or delayed. For those projects which
23 are delayed, the department shall include a detailed, written explanation of the delay.

24 (b) The second list shall include a three-year plan for all projects in the
25 program that can be funded if additional revenues become available. Each year, as
26 projects move from this list to the list required in Subparagraph (a) of this Paragraph,
27 new projects shall be added to this list from prioritized projects in the Highway
28 Priority Program starting with the highest level of priority.

(5) In the case of non-interstate Pavement Preservation Projects,
prioritizations within each Department of Transportation and Development district
shall be provided by the district administrator for that district.

* * *

§229.2. Audit requirements; annual reports

A. Beginning July 1, 2019, the legislative auditor shall annually audit the
avails of taxes levied on gasoline, motor fuels, and special fuels, hereinafter "motor
fuel taxes", to ensure compliance with the laws and regulations and adequacy of
internal controls to ensure:

(1) The avails of the motor fuels tax are used in accordance with their
restricted purposes as set forth in Article VII, Section 27(B) of the Constitution.

(2) The avails of the motor fuels tax are spent in appropriate categories as
specified in Paragraph (B)(1) of this Section.

(3) The avails of the motor fuels tax are spent on projects in compliance with
the priorities set forth in the applicable programs for prioritizing capital projects.

(4) The avails of the motor fuels tax are spent in an efficient and effective manner showing improvement in program operations through performance measures such as pavement conditions, bridge conditions, safety improvements, implementation of the Louisiana Statewide Transportation Plan, and other outcome measures as determined by the auditor.

B. The Department of Transportation and Development shall annually, or as requested, submit a report to the legislature and to the legislative auditor which contains the following information regarding the use of the avails of the motor fuel taxes:

(1) Detailed information regarding the expenditure breakdown of the avails of the motor fuel taxes utilized by the department in accordance with the restricted purposes as set forth in Article VII, Section 27(B) of the Constitution. In addition the report shall include details of expenditures in the following categories:

(a) Administration and support services which include staff costs associated with executive level oversight and administrative supervision of the various business support functions of the Department of Transportation and Development.

(b) Transportation funding used for other multimodal programs such as ports, aviation, freight, transit, and public works.

(c) Operations and maintenance expenses which include non-administrative costs for activities such as repair and maintenance of pothole patching, mowing, ditch cleaning, striping, signal repair and installation, bridge repair, and maintenance.

(d) Program and project delivery including actual construction and
construction engineering costs for projects.

(2) The methodology and outcomes of the Department of Transportation and Development's prioritization of projects in the applicable programs for prioritizing capital projects as compared to the expenditure of funds.

(3) All source documentation necessary to review any metrics determined by the legislative auditor, including those included in Paragraph (A)(4) of this Section.

(4) Any other information or data requested by the legislative auditor.

C. The legislative auditor shall annually certify that the audit of the avails of the motor fuels tax are in substantial compliance with the provisions of this Section and Article VII, Section 27 of the Louisiana Constitution. Notwithstanding any provision of law to the contrary, if in any three consecutive audits, the legislative auditor finds a lack of substantial compliance in the use of the avails of the tax levied pursuant to the provisions of this Section and Article VII, Section 27 of the Louisiana Constitution, the Legislative Audit Advisory Council shall recommend appropriate action to the legislature.

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§231. Final construction program for current fiscal year; public hearings; Joint Highway Priority Construction Committee; Joint Committee on Transportation, Highway, and Public Works; reports; review by legislature; restrictions on legislature

A.(1)

* * *

(5) Beginning February 1, 2018, and not later than February first of each year thereafter, the department shall provide the Joint Committee on Transportation, Highways, and Public Works with a proposed construction program and list of projects together with the summary of project requests from the public hearings held as required by Paragraph (2) of this Subsection together with a ~~A~~ report based on the testimony received at the district public hearings. ~~shall be sent to the department.~~ When this proposed construction program and list of projects is provided to the joint committee, the joint committee shall hold a public hearing, and any project which the joint committee determines is not in proper order of priority in accordance with the factors stated in R.S. 48:229.1 may be deleted by the joint committee; and, the joint committee may add or substitute any projects to this proposed construction program for projects which have been removed. The joint committee shall communicate the approved proposed construction program to the department. The department shall then create the final approved construction program for the coming fiscal year for submission to the legislature.

(6) ~~When this~~ Beginning March 1, 2018, and not later than March first of each year thereafter, when the final approved construction program is communicated to the legislature for funding for the coming fiscal year, any project which the legislature determines is not in the proper order of priority in accordance with the factors stated in ~~R.S. 48:229~~ R.S. 48:229.1 may be deleted by the legislature. However, the legislature shall not add any projects to this final approved construction program, nor shall the legislature make substitutions for projects which have been removed.

1 B.(1) The Joint Highway Priority Construction Committee shall be comprised
2 of the entire membership of the House and Senate transportation, highways and
3 public works committees, ~~and The Joint Highway Priority Construction Committee~~
4 shall include legislators representing the parishes within the respective highway
5 district solely for the purposes of attending the public hearings in each district as
6 required in ~~Subsection A of this Section~~ Paragraph (2) of Subsection A.
7 Notwithstanding any unforeseen circumstances, the chairman shall provide notice,
8 via electronic transmission, to each member of the Joint Highway Priority
9 Construction Committee and legislators representing the parishes within the
10 respective highway district, fifteen calendar days prior to each public hearing in each
11 highway district as required in ~~Subsection A of this Section~~ Paragraph (2) of
12 Subsection A. Beginning in 2004, the chairman of the House Transportation,
13 Highways and Public Works Committee shall serve as chairman of the Joint
14 Highway Priority Construction Committee. Thereafter, chairmanship of the Joint
15 Highway Priority Construction Committee shall rotate between the chairman of the
16 House and Senate Transportation, Highways and Public Works Committees on a
17 two-year basis.

18 (2) No action shall be taken by ~~such~~ either joint committee except by the
19 favorable vote of a majority of the members thereof from each house present and
20 voting, each house voting separately, a quorum of the joint committee being present.

21 §232. Apportionment of appropriated fund by the department; construction
22 restricted to priority listing; secretary's emergency fund; notification of
23 certain projects

24 A. No construction project shall be undertaken by the Department of
25 Transportation and Development except those included in the priority listing for that
26 fiscal year regardless of the source of the funds for the project, with the exception
27 of projects undertaken and financed out of the secretary's emergency fund ~~and~~
28 ~~projects involving the use of matching funds to meet federal requirements in order~~
29 ~~to receive federal aid funds.~~ Appropriations for highway construction shall be
30 apportioned by the department to the several highway classifications based on the

1 proportion that the needs in each classification bears to the total needs and shall be
 2 allocated by the department to the projects within each classification. Semiannually
 3 the secretary shall provide the Joint Legislative Committee on Transportation,
 4 Highways, and Public Works a recapitulation of all emergency projects for the
 5 preceding six-month period, outlining the nature and cost of the emergency.

6 B. Additionally, prior to undertaking any project that changes the flow of
 7 traffic by closing an existing interchange or reducing the number of travel lanes, the
 8 department shall provide notification of such project to each legislator in whose
 9 district the project is proposed by e-mail to his district office, together with a brief
 10 description of the need for and purpose of the project.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____