

Regular Session, 2008

SENATE BILL NO. 1

BY SENATOR ADLEY

CAPITAL OUTLAY. Provides relative to capital outlay outlay. (2/3-CA7s11(C)) (7/1/08)

1 AN ACT

2 To amend and reenact R.S. 39:101(A)(1), (B)(1)(a), (c), (d), and (2), and (F)(1), 103(A)(1)  
3 and (B)(1), 111, 112, 113, and 115, to enact R.S. 39:101(F)(3) and 103(B)(3), and  
4 to repeal R.S. 39:105, relative to capital outlay; to provide with respect to capital  
5 outlay budget development and enactment; to provide relative to the submission of  
6 capital outlay budget requests; to provide relative to the standards for capital projects  
7 and evaluation of such projects; to provide relative to inclusion of certain non-state  
8 projects in the capital outlay budget; to provide for inclusion of certain revenue bond  
9 projects in the capital outlay budget; to provide for an effective date; and to provide  
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 39:101(A)(1), (B)(1)(a), (c), (d) and (2) and (F)(1), 103(A)(1) and  
13 (B)(1), 111, 112, 113, and 115 are hereby amended and reenacted, and R.S. 39:101(F)(3) and  
14 103(B)(3) are hereby enacted to read as follows:

15 §101. Capital outlay budget request; feasibility studies

16 A.(1) Except as provided in Paragraph 2 of this Subsection, no later than the  
17 first day of November each year, the head of each budget unit shall present to the



1 other supporting information and documents for such projects shall contain ~~and~~  
 2 constitute **the information necessary for** the feasibility study required by Article  
 3 VII, Section 11(C) of the Constitution of Louisiana.

4 (2) The legislature shall not include funding within the ~~Capital Outlay Act~~  
 5 **capital outlay act** for a project or projects of a non-state entity until such time as the  
 6 non-state entity has certified to the division of administration that bond funding ~~or~~  
 7 **other sources of funding** sufficient to fund the project or projects is not otherwise  
 8 available to the non-state entity. The division of administration, subject to ~~oversight~~  
 9 **approval** of the House Committee on Ways and Means and the Senate Committee  
 10 on Revenue and Fiscal Affairs, is authorized to promulgate such rules and  
 11 regulations as are necessary for the implementation of this Paragraph.

12 \* \* \*

13 F.(1) The **office of** facility planning and control ~~section~~ shall assign a project  
 14 number to each project for which a budget request is received by that ~~section~~ **office**.  
 15 It shall also assign a project number to projects included in the enrolled version of  
 16 the capital outlay bill for which a project number has not been previously assigned.

17 \* \* \*

18 **(3) The office of facility planning and control shall establish a system of**  
 19 **categorization of projects requested to be funded through the capital outlay act.**  
 20 **The division of administration may promulgate such rules and regulations as**  
 21 **are necessary for the implementation of this Paragraph. However, such rules**  
 22 **and regulations shall be approved by the House Committee on Ways and Means**  
 23 **and the Senate Committee on Revenue and Fiscal Affairs before they are**  
 24 **promulgated.**

25 \* \* \*

26 §103. Standards for capital projects and evaluations

27 A.(1) The **office of** facility planning and control ~~section~~ of the division of  
 28 administration shall establish standards for capital projects which shall include but  
 29 not be limited to criteria of requirements for:

- 1 (a) Allocation of space;
- 2 (b) Design and construction according to anticipated use;
- 3 (c) Determination of the economic feasibility of remodeling buildings,
- 4 purchasing older buildings, or leasing space; ~~and,~~
- 5 (d) Utilization or disposition of buildings being replaced.

6 **(e) Standards and procedures for determining the feasibility of projects**  
 7 **as required by Article VII, Section 11(C) of the Constitution of Louisiana.**

8 **(f) Standards for architectural programs.**

9 \* \* \*

10 B.(1) Except as provided in Paragraph (2) of this Subsection, the office of  
 11 facility planning and control ~~section~~ shall timely analyze and evaluate requested  
 12 capital projects including compliance with the provisions of R.S. 39:101 and 102, the  
 13 standards required by Subsection A and long-range policies and goals established by  
 14 the legislature and the governor.

15 \* \* \*

16 **(3) The office of facility planning and control shall establish a system for**  
 17 **comparatively evaluating projects based on the feasibility and merits of projects**  
 18 **and shall annually establish a priority ranking of projects. The division of**  
 19 **administration may promulgate such rules and regulations as are necessary for**  
 20 **the implementation of this Paragraph. However, such rules and regulations**  
 21 **shall be approved by the House Committee on Ways and Means and the Senate**  
 22 **Committee on Revenue and Fiscal Affairs before they are promulgated.**

23 \* \* \*

24 §111. Capital outlay budget submission

25 Not later than the eighth day of each regular session, the governor shall  
 26 submit to the legislature his capital outlay budget, the proposed capital outlay bill  
 27 implementing the first year of the five-year program, **and** the bond authorization bill  
 28 for the sale of bonds to fund projects included in the bond portion of the capital  
 29 outlay bill, ~~and the concurrent resolution for the adoption of the remaining four years~~

1 ~~of the five-year capital outlay program.~~

2 §112. Capital ~~Outlay Act~~ **outlay act**

3 A.~~(1)~~ The legislature shall enact into law a capital outlay bill which shall  
4 incorporate the first year of the five-year capital outlay program as provided in  
5 Article VII, Section 11(B) of the Constitution of Louisiana. The capital outlay act  
6 shall include appropriation of funds from specified sources, including proceeds of  
7 bonds, for capital projects to be expended during the next fiscal year.

8 ~~(2)~~ **B.** All projects included within any capital outlay act, under penalty of  
9 nullity, shall have been proposed, reviewed, and evaluated in accordance with the  
10 requisites contained in Subpart A. **The office of facility planning and control shall**  
11 **make the determination as to compliance with Subpart A and shall report those**  
12 **findings to the Joint Legislative Committee on Capital Outlay, the House**  
13 **Committee on Ways and Means and Appropriations and the Senate Committee**  
14 **on Revenue and Fiscal Affairs and Finance.**

15 ~~(3)~~ **C.(1)** Capital outlay budget requests submitted after November first may  
16 be included within the ~~Capital Outlay Act~~ **capital outlay act** if the capital outlay  
17 budget request meets all of the applicable requirements as provided in R.S. 39:101  
18 and 102 except for time of submission and if either of the following conditions has  
19 been met:

20 (a) The project is an economic development project recommended in writing  
21 by the secretary of the Department of Economic Development ~~or~~.

22 **(b) The project** is an emergency project recommended in writing by the  
23 commissioner of administration.

24 ~~(ii)~~ **(2)** For purposes of this Section, "economic development" means the  
25 following:

26 ~~(aa)~~ **(a)** Improvements on public or government owned property for the  
27 purposes of attracting or retaining a specific new or existing manufacturing or  
28 business operation that benefits Louisiana.

29 ~~(bb)~~ **(b)** Facilities or improvements on public or government owned property

1 that generate new, permanent employment or which help retain existing employment.

2 ~~(cc)~~ (c) Facilities or infrastructure improvements on public or government  
3 owned property necessary for the manufacturing plant or business to operate.

4 ~~(iii)~~ (d) For purposes of this Subparagraph, "emergency" means essential to  
5 alleviate conditions that are hazardous to life, health or property, and court mandates.

6 ~~(b) The project has been approved by the Joint Legislative Capital Outlay  
7 Committee; however, no action to approve a project may be taken by the committee  
8 after the last day for introduction of a matter intended to have the effect of law by  
9 either house of the legislature.~~

10 ~~(4)~~ D. Any project deemed not feasible after evaluation of the feasibility  
11 study required pursuant to Article VII, Section 11(C) of the Constitution of  
12 Louisiana shall not be included with the ~~Capital Outlay Act~~ capital outlay act. The  
13 office of facility planning and control ~~section~~ shall submit a report to the Joint  
14 Legislative ~~Capital Outlay~~ Committee on Capital Outlay, the House Committee on  
15 Appropriations, the House Committee on Ways and Means, the Senate Committee  
16 on Finance, and the Senate Committee on Revenue and Fiscal Affairs detailing its  
17 findings and evaluation of any project deemed not feasible. Such report shall be  
18 submitted no later than twenty days after the determination that the project is deemed  
19 not feasible.

20 E.(1) General obligation bond funding of non-state projects shall be  
21 limited to no more than twenty percent of the cash line of credit capacity for  
22 projects in any fiscal year. Non-state projects are those projects not owned and  
23 operated by the state except those projects determined by the commissioner of  
24 administration to be a regional economic development initiative.

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

27 (a) A project deemed by the commissioner of administration to be an  
28 emergency project.

29 (b) A project of a non-state entity which has demonstrated its inability

1 to provide a local match. The division of administration shall promulgate rules  
2 establishing a needs based formula for determining the inability of a non-state  
3 entity to provide the required local match. However, such rules shall be  
4 approved by the House Committee on Ways and Means and the Senate  
5 Committee on Revenue and Fiscal Affairs before they are promulgated.

6 F. The general obligation bond cash line of credit capacity shall be  
7 limited to two hundred million dollars annually adjusted for construction  
8 inflation from 1994. This limit shall only be raised by a favorable vote of two-  
9 thirds of the elected members of each house of the legislature.

10 G.(1) Projects to be funded through the sale of bonds and secured by or  
11 payable from state appropriation shall either be included in the capital outlay  
12 act or shall obtain legislative approval as set forth in this Subsection.

13 (2) Projects to be funded by the sale of bonds and secured or payable  
14 from state appropriation shall be included in a separate section of the capital  
15 outlay act entitled "appropriated debt projects."

16 (3) Appropriated debt projects not included in the annual capital outlay  
17 act may be considered between sessions by submission of those projects by the  
18 division of administration to the Interim Emergency Board, and approval by a  
19 majority vote of the elected members of each house of the legislature in the  
20 manner provided for in Chapter 3-B of Subtitle I of Title 39 of the Louisiana  
21 Revised Statutes.

22 (4) After obtaining legislative approval as set forth in this Subsection,  
23 requests to sell bonds shall be submitted to the state bond commission for  
24 review and approval.

25 (5) The division of administration may promulgate such rules and  
26 regulations as are necessary for the implementation of this Subsection.  
27 However, such rules and regulations shall be approved by the House Committee  
28 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs  
29 before they are promulgated.

1 §113. Appropriations

2 A. All funds from whatever the source for state projects approved under the  
3 provisions of this Part shall be appropriated to the **office of** facility planning and  
4 control ~~section~~ of the division of administration. This requirement shall not apply  
5 to appropriations made to the Department of Transportation and Development for  
6 highway or public works projects, the ~~Department of Military Affairs~~ **Department**,  
7 or the legislature.

8 B. All of the funds appropriated to state port commissions or districts, to  
9 authorities created by the legislature, to political subdivisions of the state, or to local  
10 governing authorities shall be administered by the **office of** facility planning and  
11 control ~~section~~ of the division of administration under cooperative endeavor  
12 agreements.

13 \* \* \*

14 §115. Notice requirements

15 A. The **office of** facility planning and control ~~section~~ shall send notice to all  
16 ~~nonstate~~ **non-state** entities of the need to resubmit a capital outlay budget request for  
17 projects that do not receive a line of credit for the total amount of bond proceeds  
18 authorized in the ~~Capital Outlay Act~~ **capital outlay act** for that fiscal year. The  
19 notice shall list all of the ~~nonstate~~ **non-state** entity's projects which have not received  
20 lines of credit prior to September fifteenth of the year for which notice is sent to the  
21 ~~nonstate~~ **non-state** entity.

22 B. The **office of** facility planning and control ~~section~~ shall also send a notice  
23 of the need to resubmit a capital outlay budget request to each state representative  
24 and state senator who has any project in his geographic area that did not receive a  
25 line of credit for the total amount of bond proceeds authorized in the ~~Capital Outlay~~  
26 ~~Act~~ **capital outlay act** for that year. The notice shall list all of the projects in the  
27 representative's or senator's geographic area which have not received lines of credit  
28 prior to September fifteenth of the year for which notice is sent to the representative  
29 or senator.

1 C. All notices required under this Section shall be sent by the office of  
 2 facility planning and control ~~section~~ between September fifteenth and October  
 3 fifteenth of each year.

4 Section 2. R.S. 39:105 is hereby repealed in its entirety.

5 Section 3. This Act shall become effective on July 1, 2008; if vetoed by the  
 6 governor and subsequently approved by the legislature, this Act shall become  
 7 effective on July 1, 2008, or on the day following such approval by the legislature,  
 8 whichever is later.

---

The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by Riley Boudreaux.

---

#### DIGEST

Adley (SB 1)

Present law provides for the development, enactment, and execution of the capital outlay budget. Present law references the facility planning and control section of the division of administration. Proposed law changes reference to the office of facility planning and control.

Present law provides for the submission of capital outlay requests to the office. Proposed law retains present law but requires that such requests be made on forms provided by the office.

Present law provides that any form for submission of a request together with the legislative endorsement and other supporting information and documents for such projects contain and constitute the feasibility study required by Article VII, Section 11(C) of the constitution.

Proposed law provides that any form for submission of a request together with the legislative endorsement and other supporting information and documents shall constitute the information necessary for the feasibility study.

Present law provides that the legislature shall not include funding within the capital outlay act for a non-state entity until the non-state entity has certified to the division of administration that bond funding sufficient to otherwise fund the project is not otherwise available to the non-state entity.

Proposed law retains present law and further provides that the non-state entity shall certify that bond funding or other sources of funding sufficient to otherwise fund the project is not otherwise available to the non-state entity.

Proposed law provides that the office of facility planning and control shall establish a system of categorization of projects requested to be funded through the capital outlay act, in accordance with rules adopted by the division of administration and subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs before the regulations are promulgated.

Present law provides that the office of facility planning and control shall establish standards for capital projects including criteria of requirements for:

- (a) Allocation of space.
- (b) Design and construction according to anticipated use.
- (c) Determination of the economic feasibility of remodeling buildings, purchasing older buildings, or leasing space.
- (d) Utilization or disposition of buildings being replaced.

Proposed law retains present law and requires the office of facility planning and control to also establish criteria of requirements for:

- (e) Standards and procedures for determining the feasibility of projects.
- (f) Standards for architectural programs.

Proposed law requires the office of facility planning and control to establish a system for comparatively evaluating projects based on the feasibility and merits of projects and shall annually establish a priority ranking of projects, in accordance with rules adopted by the division of administration and subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs before the regulations are promulgated.

Present law requires that not later than the eighth day of each regular session, the governor submit to the legislature his capital outlay budget, the proposed capital outlay bill implementing the first year of the five-year program, the bond authorization bill for the sale of bonds to fund projects included in the bond portion of the capital outlay bill, and the concurrent resolution for the adoption of the remaining four years of the five-year capital outlay program.

Proposed law deletes requirement of concurrent resolution and provides that proposed capital outlay bill also include a five-year capital outlay program. Otherwise retains present law.

Present law provides that all projects included within any capital outlay act, under penalty of nullity, shall have been proposed, reviewed, and evaluated in accordance with present law.

Proposed law retains present law and provides that the office of facility planning and control shall make the determination of compliance with present law and shall report those findings to the Joint Legislative Committee on Capital Outlay, the House committees on Ways and Means and Appropriations and the Senate committees on Revenue and Fiscal Affairs and Finance.

Present law authorizes the Joint Legislative Committee on Capital Outlay to approve capital outlay budget requests which are submitted after November first, provided such approval occurs prior to the last day for introduction of a matter intended to have the effect of law by either house of the legislature.

Proposed law repeals present law.

Proposed law limits general obligation bond funding to no more than 20% for non-state projects. Proposed law defines "non-state project" to be a project not owned and operated by the state except those projects determined by the commissioner of administration to be a regional economic development initiative.

Proposed law requires non-state entity projects to have a match of not less than 25% of the total requested amount of funding except:

- (a) A project determined by the commissioner of administration to be an emergency project.
- (b) A project of a non-state entity which has demonstrated its inability to provide a local match, in accordance with rules establishing a needs based formula adopted by the division of administration and subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs before the regulations are promulgated.

Proposed law limits the general obligation bond cash line of credit capacity to \$200 million adjusted for construction inflation from 1994. Proposed law provides that this limit may only be raised by a favorable vote of 2/3s of the elected members of each house of the legislature.

Proposed law provides that projects to be funded by the sale of bonds and secured or payable from state appropriation shall be included in a new section of the capital outlay act titled "Appropriated Debt Projects" or shall obtain legislative approval by mail ballot after approval of the Interim Emergency Board, prior to being submitted, reviewed and approved by the State Bond Commission. Proposed law provides that the division of administration may adopt rules in order to implement proposed law, subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs before the regulations are promulgated.

Present law requires that prior to each regular legislative session, and not later than March 1st, the governor submit a preliminary capital outlay budget which shall include a list of the proposed projects in priority order based on the evaluation of the feasibility studies submitted, together with a summary thereof outlining the maximum amount of monies to be spent in each department or political subdivision to the presiding officer of each house. Upon receipt of the preliminary capital outlay budget, it shall be referred for review to the appropriate standing committee(s) of the respective houses in accordance with their rules.

Proposed law repeals present law.

Effective July 1, 2008.

(Amends R.S. 39:101(A)(1), (B)(1)(a), (c), (d) and (2) and (F)(1), 103(A)(1) and (B)(1), 111, 112, 113, and 115; adds R.S. 39:101(F)(3) and 103(B)(3); and repeals R.S. 39:105)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Eliminates all references to numbered priorities in the capital outlay bill and associated limits as to the amount of non-state projects which may be placed into the bill and instead requires the office of facility planning and control to establish a system for comparatively evaluating projects based on their feasibility and merits and to annually establish their priority ranking, after approval of regulations by the House Ways and Means Committee and Senate Revenue and Fiscal Affairs Committee.
2. Requires a feasibility study of all projects, rather than only projects in excess of \$3 million and authorizes the division of administration to establish standards and procedures for determining the feasibility of projects and standards for architectural programs.
3. Deletes the authority of the Joint Legislative Committee on Capital Outlay

to include requests for projects received after November 1<sup>st</sup>, but authorizes a legislator finally elected after the November 1<sup>st</sup> deadline to file requests for projects until December 15<sup>th</sup>.

4. Restricts general obligation bond funding of non-state projects to no more than 20% of the "cash line of credit capacity" for projects in any fiscal year. Defines "cash line of credit capacity" as \$200 million annually adjusted for construction inflation from 1994 unless raised by a favorable vote of 2/3s of the elected members of each house of the legislature. Defines "non-state project" as those projects not owned and operated by the state except those determined by the commissioner of administration to be "regional economic development initiatives."
5. Requires a 25% local match for non-state projects unless commissioner of administration deems the project an "emergency project" or a non-state entity has demonstrated its inability to provide a local match. The division of administration must promulgate rules establishing a needs-based formula for determining such inability after they are approved by House Ways and Means Committee and Senate Revenue and Fiscal Affairs Committee.
6. Removes specific classifications of priorities and authorizes division of administration to promulgate regulations therefor after approval of House Ways and Means and Senate Revenue and Fiscal Affairs Committee.
7. Deletes the requirement that the capital outlay bill contain the proposed state projects for the remaining 4 years of the 5-year program.
8. Requires projects to be funded through the sale of bonds and secured by or payable from state appropriation to be either included in the capital outlay act in a separate section "appropriated debt projects" or be submitted in between sessions by the division to the IEB and be approved by a majority vote of the elected members of each house by mail ballot. The division of administration is authorized to promulgate such rules and regulations as are necessary for the implementation of this procedure after they are approved by House Ways and Means Committee and Senate Revenue and Fiscal Affairs Committee.
9. Changes the effective date from August 15, 2008, to July 1, 2008.