

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2375

BY: HUDSON, McCORKELL,
LARASON, THOMPSON, VAUGHN
(George), LEIST and BEGLEY
of the HOUSE

and

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SENATE

COMMITTEE SUBSTITUTE

(PUBLIC FINANCE - STATE CAPITAL IMPROVEMENT
PLANNING ACT - AMENDING 74 O.S. 1991, SECTION
5003.7 - CODIFICATION -

EMERGENCY)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 900 of Title 62, unless there is
created a duplication in numbering, reads as follows:

Sections 1 and 2 of this act shall be known and may be cited as
the "State Capital Improvement Planning Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 901 of Title 62, unless there is
created a duplication in numbering, reads as follows:

A. 1. There is hereby created a Long-Range Capital Planning Commission to advise and assist the Legislature in providing for capital facilities in this state. The Commission shall consist of nine (9) members as follows:

- a. three members appointed by the President Pro Tempore of the Senate to serve at his pleasure. Of these appointees one shall be a member of the Senate and two shall be from the public at large,
- b. three members appointed by the Speaker of the House of Representatives to serve at his pleasure. Of these appointees one shall be a member of the House of Representatives and two shall be from the public at large,
- c. three members shall be appointed by the Governor to serve at his pleasure. These appointees shall be from the public at large,

2. A chairman of the Commission shall be elected from its membership. Five members of the Commission shall constitute a quorum. Members of the Commission shall serve without compensation, but all public members shall be entitled to reimbursement, pursuant to the State Travel Reimbursement Act, for expenses incurred in the performance of their duties.

3. Initial appointments to the Commission shall be made within ninety (90) days of the effective date of this act.

B. The Commission shall have the authority to promulgate rules and regulations necessary to implement the provisions of this act.

C. The Oklahoma State Bond Advisor shall provide staffing for the Commission and other such assistance as the Commission may require.

D. 1. The Commission shall prepare each year a state capital plan for addressing state, regional and local public capital facility needs for the next ensuing five (5) years. The Oklahoma

State Regents for Higher Education and each state governmental entity as defined in Section 695.3 of Title 62 of the Oklahoma Statutes shall cooperate with the Commission in the preparation of the state plan. By October 1, 1992, each state governmental entity shall submit a copy of its complete inventory and a need list. Beginning December 1, 1993, the plan shall be submitted to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate no later than December 1 of each year.

2. a. The capital plan should supplement and integrate, not replace, existing capital planning processes at the state, regional or local level. The plan shall consider and incorporate, as appropriate, the local and regional plans that may be developed pursuant to the provisions of the Local and Regional Capital Improvement Process Act. In addition, the Commission shall consider the issues and potential of private sector involvement in traditionally public sector infrastructure services as privatization and public/private partnerships can provide viable alternatives to existing methods of infrastructure development.
- b. The plan shall assess long-term needs for capital facilities provided by both state and local governments as determined by the Commission. The plan shall include:
 - (1) an inventory of capital facilities held by the state, when available, by a unit of local government, or by a special district. The inventory shall include such information as is reasonably available on the physical and economic condition of these assets,

- (2) a projection of economic and demographic trends likely to influence the needs for new or expanded capital facilities,
- (3) an estimate of mandatory, essential, desirable and deferrable repair, replacement and expansions,
- (4) estimates of life cycle costs for new and substantially expanded or renovated facilities. Life cycle costs shall include the cost of construction, financing, repair and maintenance,
- (5) an analysis of recent trends and projections of revenues available from general obligation and revenue bonds, general and dedicated taxes used for capital facilities finance, user fees, the federal government and other sources,
- (6) an analysis of the capacity of the state and local governments to incur debt or finance public capital facilities,
- (7) a detailed list of all capital projects of the state which the Commission recommends be undertaken or continued for any state agency in the next two (2) fiscal years, together with information as to the effect of such capital projects on future operating expenses of the state, and with recommendations as to the priority of such capital projects and the means of funding them,
- (8) the forecasts of the Commission as to the requirements for capital projects of state agencies for the three (3) fiscal years next following such two (2) fiscal years and for such additional periods, if any, as may be necessary

or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects,

- (9) a schedule for the next fiscal year of recommended projects,
- (10) a review of capital projects which have recently been implemented or completed or are in process of implementation or completion,
- (11) recommendations as to the maintenance of physical properties and equipment of state agencies, and
- (12) such other information as the Commission deems relevant to the foregoing matters.

3. The Governor shall prepare at the same time as the state budget document is prepared, a capital budget. The capital budget shall be prepared and submitted by the Governor or Governor-elect in accordance with the procedures for preparing the state budget document. The capital budget shall embrace all expenditures of the state government for facilities and equipment and all revenues to be raised for purpose of meeting expenditure commitments during the next ensuing fiscal year and shall include the following:

- a. for each expenditure and class of expenditures, the costs to be incurred during the next ensuing fiscal year, plus where appropriate, the annual operating and maintenance costs of such facilities and a schedule of depreciation calculated in accordance with the principles and standards of capital budgeting authorized by paragraph 4 of this subsection,
- b. the revenues and sources required to meet projected expenditures. Revenue sources to be indicated include, but are not limited to: the General Revenue Fund, the Transportation Fund, any special funds,

proceeds of bond sales, federal funds, local government revenue or other sources. Where additional revenues in the form of additional taxes, user fees or new bond issues are proposed to meet expenditure requests, these shall be indicated, and

- c. a statement regarding the relationship between the proposals contained in the capital budget and the capital plan. The capital budget shall be based upon the capital plan prepared by the Commission.

4. The Commission, with the assistance of the Office of State Finance, shall prepare and publish rules and regulations that set forth principles and standards for capital planning and budgeting to be used by state agencies. The rules and regulations shall set forth definitions of relevant terms to be used in the capital planning and budgeting processes, establish accounting standards and standards for costs and benefits of public facility investments.

E. The Oklahoma Department of Commerce shall assist the Long-Range Capital Planning Commission in its mission to develop any portion of the state capital plan addressing regional and local public capital facility needs. The Department shall assist in providing the expertise and information required to assess long-term needs for capital facilities at the regional and local level. The Department shall have the authority to contract with other entities to provide the type of information needed to prepare:

1. An inventory of capital facilities held by local government, and special purpose and quasi-government districts, including such information as is reasonably available on the physical and economic condition of these assets;

2. A projection of economic and demographic trends likely to influence the needs for new or expanded local capital facilities;

3. An estimate of mandatory, essential, desirable and deferrable repair, replacement and expansions; and

4. Estimates of life cycle costs for new and substantially expanded or renovated facilities. Life cycle costs shall include the cost of construction, financing, repair and maintenance.

F. 1. The Commission and the Oklahoma State Bond Advisor may call to their assistance such personnel or any state agency in order to perform their duties pursuant to the State Capital Improvement Planning Act and such agencies shall respond and provide any such assistance as may be required. The Office of State Finance and other state agencies also shall assist the Commission in the performance of its functions. The Commission may use existing studies, surveys, plans, data and other materials in the possession of any state agency or any municipality or political subdivision of this state. Each such agency, municipality or subdivision may make the same available to the Commission so that the Commission may have available to it current information with respect to the capital plans and programs of each such agency, municipality or subdivision.

2. The officers and personnel of any state agency, municipality or political subdivision, and any other person may serve at the request of the Commission upon such advisory committees as the Commission may create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution of the compensation, status, rights and privileges which they otherwise enjoy.

G. 1. There is hereby created the Policy Advisory Committee to the Commission to meet no less than once a year or at the call of the chairman of the Commission.

2. The purposes and responsibilities of the Policy Advisory Committee shall be:

- a. to counsel and otherwise assist the Commission in the development of the capital plan, and
- b. to review and comment on the capital plan and make recommendations to the Commission concerning capital

planning and debt management issues as deemed appropriate by the Committee.

3. The Policy Advisory Committee shall be composed of the members of the Bond Oversight Commissions and the chief executive officer or fixed designate from each of the following entities; provided, designated members shall be appointed by each chief executive officer for a term certain which shall not be less than one (1) year:

- a. Association of County Commissioners of Oklahoma,
- b. Oklahoma Municipal League,
- c. State Department of Transportation,
- d. Oklahoma Turnpike Authority,
- e. Office of Public Affairs,
- f. Oklahoma Water Resources Board,
- g. Department of Human Services,
- h. Department of Corrections,
- i. Department of Mental Health,
- j. Oklahoma Tourism and Recreation Department,
- k. Department of Education,
- l. Oklahoma State Regents for Higher Education,
- m. State Department of Health,
- n. State Department of Agriculture,
- o. Department of Vocational and Technical Education,
- p. Oklahoma Association of Regional Councils, and
- q. Such other members as determined by the Commission.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 910 of Title 62, unless there is created a duplication in numbering, reads as follows:

Sections 3 through 6 of this act shall be known and may be cited as the "Local and Regional Capital Improvement Planning Process Act".

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 911 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Legislature declares that it is the purpose of the Local and Regional Capital Improvement Planning Process Act to:

1. Encourage the establishment in each unit of local government of capital improvement planning according to the provisions of the Local and Regional Capital Improvement Planning Process Act and consistent with the goals of and policies of this state;

2. Provide units of local government with the tools and resources to effectively plan and manage a capital improvement planning process with a maximum of local initiative and flexibility;

3. Encourage through state and regional technical and financial assistance and review, local capital improvement processes, plans and spending priorities that are prospective and inclusive of all matters that are determined by the Legislature to be in the best interests of the state;

4. Incorporate regional considerations into local planning and decision-making;

5. Create a strong partnership between state government and local government;

6. Provide for continued direct state regulation of development proposals that occur in areas of statewide concern or that by their scale or nature otherwise affect vital state interests; and

7. Encourage the widest possible involvement by the citizens of each unit of local government in all aspects of the capital improvement process.

B. The Legislature declares that it is in the best interest of the state to achieve the following goals:

1. To encourage orderly growth and development and improvement in appropriate areas of each unit of government while protecting the state's rural character and making efficient use of public services;

2. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development; and

3. To promote an economic climate which increases job opportunities and overall economic well-being.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 912 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in the Local and Regional Capital Improvement Planning Process Act, unless otherwise indicated:

1. "Capital improvement plan" means a document or interrelated document containing the elements established under the provisions of subsection D of Section 6 of this act, including the strategies for an implementation program which are consistent with the goals and guidelines established under the Local and Regional Capital Improvement Planning Process Act;

2. "Local planning committee" means the committee established by the officers of a unit of local government or combination of units of local governments which has the general responsibility established under Section 6 of this act. If a unit of local government has an existing planning department or other such entity, the unit may utilize that entity as its local planning committee;

3. "Person" means an individual, corporation, governmental agency, county, municipality, trust, estate, partnership, association or any other legal entity;

4. "Regional council" means a regional commission or a council of governments established under the provisions of the Interlocal Cooperation Act, and which has as its primary purpose joint planning for units of local government;

5. "Reviewing authority" means the planning board, agency or office of a unit of local government or if none, the elected officers of such unit;

6. "Special district" means a rural water district, conservation district, rural road improvement district, sewer protection district, fire protection district and districts established pursuant to the Interlocal Cooperation Act; and

7. "Unit of local government" means a municipality, county or special district.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 913 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Each unit of local government, subject to the limitations and requirements of the Local and Regional Capital Improvement Planning Process Act, is encouraged to:

1. Plan for future development, growth, and improvement; and
2. Adopt and amend local capital improvement programs

consistent with the provisions of the Local and Regional Capital Improvement Planning Process Act.

B. 1. A unit of local government's responsibility for the preparation or amendment of its capital improvement program is governed by the provisions of this section. Where procedures for local adoption of capital improvement plans are governed by other provisions of state law or municipal charter or ordinance, the unit of local government may modify the procedural requirements of this subsection as long as a broad range of opportunity for public comment and review is preserved;

2. Each unit of local government which prepares or amends a capital improvement program shall ensure that said program is consistent with the goals, guidelines and other provisions of the Local and Regional Capital Improvement Planning Process Act;

3. a. The governing officers of a unit of local government or combination of units shall designate and establish a local planning committee which shall have the general responsibility for the development and

maintenance of a local capital improvement plan. The committee shall:

- (1) conduct public hearings and solicit and encourage citizen input, and
- (2) prepare the local capital improvement plan and make recommendations to the local governing body regarding the adoption and implementation of the program or amended program,

b. The governing officers of a unit of local government or combination of units may solicit bids from persons or regional councils to act as the local planning committee;

4. In order to encourage citizen input and participation, units of local government are directed to adopt local capital improvement plans only after soliciting and considering a broad range of public review and comment;

5. The local planning committee shall conduct its meetings in accordance with the provisions of the Oklahoma Open Meeting Act. The committee shall hold at least one public hearing on its proposed local capital improvement plan. A copy of the proposed plan shall be made available for public inspection at a convenient location during normal public hours at least thirty (30) days prior to the hearing;

6. Any comments and suggestions within the established time limits shall be considered by the committee and may be adopted. All comments and suggestions shall be made available for public inspection;

7. A unit of local government may seek technical assistance, comments and suggestions on format, applicability and potential financing options from the Long Range Capital Planning Commission, the Oklahoma Department of Commerce and the State Bond Advisor;

8. The proposed capital improvement plan shall be considered adopted when it has been accepted by the governing body of the unit of local government;

9. After adoption, a copy of the Capital Improvement Plan shall be forwarded to the appropriate regional council by the units of local government;

10. Each regional council shall incorporate the capital improvement plans into a regional capital improvement plan.

C. Cooperative local improvement planning efforts conducted by two (2) or more units of local government shall comply with the provisions of this subsection.

1. A unit of local government shall exercise planning authority over the total land area within its jurisdiction.

2. Any combination of contiguous units of local government may conduct joint planning programs to fulfill the responsibilities established under this act. The units shall agree:

- a. on procedures for joint action in the preparation and adoption of local capital improvements plans,
- b. on the manner of representation, and
- c. on the amount of contribution from each for any costs incurred in the development of the local capital improvements plan.

3. The agreement shall be in writing, approved by the governing bodies of the units of local government, and forwarded to the Long Range Capital Planning Commission.

D. A local capital improvement plan shall include an inventory and analysis section addressing state goals under this act and issues of local or regional significance. The format of the inventory and capital improvement plan and process shall be based on information provided by the Oklahoma Department of Commerce. The analysis shall include ten-year projections of local and regional growth in population and residential, commercial and industrial

activity, the projected need for public facilities, and the vulnerability of and potential impacts on natural resources.

1. The inventory and analysis section shall include but not be limited to:

- a. a legal description and general area description of the area address,
- b. economic and demographic data describing the unit of local government and the region within which it is located,
- c. existing transportation systems, including the capacity of existing and proposed major thoroughfares, secondary routes, pedestrian ways and parking facilities,
- d. land use information which describes current and projected development patterns,
- e. an assessment of the age of all capital facilities and an assessment of the existing technology of all capital projects,
- f. an assessment of capital facilities and public services necessary to support growth and development and the costs of those facilities and services, and
- g. an analysis of projections of revenues available from all sources including general funds, bond issues, special funds, and federal funds.

2. The plan shall include a policy development section which relates the findings contained in the inventory and analysis section to the state goals. The policies shall:

- a. promote the state goals under the Local and Regional Capital Improvement Planning Process Act,
- b. address any conflicts between state goals in the Local and Regional Capital Improvement Planning Process Act,

- c. address any conflicts between regional and local issues, and
- d. address financing policies and capabilities of the state and of units of local government and any special districts.

3. The plan shall contain an implementation strategy section which shall include a timetable for the implementation program. The implementation shall be consistent with state laws and shall actively promote policies developed during the planning process. The timetable shall identify significant issues to be presented to a vote of the people in the implementation program. In developing its strategies and subsequent policies and capital improvement plans each unit of local government shall:

- a. identify and designate at least two (2) basic types of geographic areas. Growth areas are those suitable for orderly residential, commercial and industrial development forecast over the next ten (10) years. Rural areas are those areas where protection should be provided for agricultural, forest and scenic lands; and
- b. develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected economic growth and development.

4. An implementation program shall be adopted that is consistent with the strategies in paragraph 3 of this subsection.

5. The capital improvement plan shall be coordinated with existing or future comprehensive plans adopted by local units of government.

E. A unit of local government periodically shall review and revise its local capital improvement plan in a timely manner to account for changes caused by growth and development. At a minimum,

the unit of local government shall update the program at least once every three (3) years in accordance with the provisions of this section.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 5003.7, is amended to read as follows:

Section 5003.7 A. The Oklahoma Department of Commerce shall prepare, with the cooperation of the Oklahoma business community, agricultural community, financial community, universities, labor and the state executive and legislative branches, a five-year economic development plan and annual updates for the State of Oklahoma. The recurring five-year economic development plan and annual updates shall be subject to the approval of Oklahoma Futures.

1. The purpose of the plan shall be to identify significant economic, social, and demographic trends which may have both short-term and long-term impacts on the state and local economy and to present strategies and recommendations that the state and local political subdivisions might adopt to improve or stabilize the economy.

2. The goals of the plan shall include the development of a diversified state economy, increasing employment, the maximum use of federal, state and local funds to achieve the goals or recommendations included in the plan, the maximum investment of capital in the economy of the state, and the improvement of the quality of life in the state.

3. The plan wherever possible shall make recommendations to encourage intergovernmental cooperation and public and private cooperation.

4. Copies of the plan and the annual updates shall be submitted to the Oklahoma Advisory Committee on Intergovernmental Relations, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the chairmen of the standing

committees on economic development of the Senate and of the House of Representatives in the annual report of Oklahoma Futures.

5. The Department shall develop and manage a complete economic information system which will support the five-year planning process, and which will make available complete and timely information on the state economy. The economic information system shall be operated by public or private Oklahoma universities or an Oklahoma enterprise capable of providing such services in a cost-effective manner.

~~B. The Oklahoma Department of Commerce shall have the power and duty to develop public works physical and financial planning capabilities to establish a statewide public works planning process that is accessible by local planners, that is objective, and that is managed by people highly skilled in all aspects of infrastructure planning.~~

~~C.~~ The Department, in conjunction with the Oklahoma Development Finance Authority, is authorized to develop an infrastructure program which will enable political subdivisions of this state to finance public works projects in order to modify or improve existing public facilities for purposes of bringing said facilities, and the operation thereof, into compliance with and maintaining compliance with federal, state and local laws and regulations pertaining to the protection of the public health and the environment.

~~D.~~ C. The Director shall develop an annual business plan for the Department. The business plan shall be submitted to Oklahoma Futures for its review and comment and shall be included in the annual report of Oklahoma Futures. The business plan shall include the need and mission of each division of the Department created by law or the Director and an analysis of past costs and benefits and future projected costs and benefits to the state of the programs of each division of the Department. The business plan shall be consistent with the goals of the recurring five-year plan specified

in this section. Oklahoma Futures shall review and comment upon such plan before it is implemented. The Director shall distribute copies of the business plan by such means that will make it widely available to communities, firms and local economic development managers throughout this state.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-2130

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