

Regular Session, 2011

HOUSE BILL NO. 3

BY REPRESENTATIVE GREENE

CAPITAL OUTLAY: Provides for the Omnibus Bond Act

1 AN ACT

2 To enact the Omnibus Bond Authorization Act of 2011, relative to the implementation of  
3 a five-year capital improvement program; to provide for the repeal of certain prior  
4 bond authorizations; to provide for new bond authorizations; to provide for  
5 authorization and sale of such bonds by the State Bond Commission; and to provide  
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

1 aforesaid unissued bonds on the financial statements of the state under the above described  
2 circumstances operates unnecessarily to the financial detriment of the state. Accordingly,  
3 the legislature deems it necessary and in the best financial interest of the state to repeal all  
4 Acts, except any Act authorizing the issuance of refunding bonds and Act 41 of the 2006  
5 First Extraordinary Session, providing for the issuance of general obligation bonds in the  
6 state which cannot be issued for the projects contemplated, and in their stead to reauthorize  
7 general obligation bonds of the state for those projects deemed to be essential, and to  
8 authorize new projects.

9 Section 2. It is the intent of the legislature that this Act shall constitute the Omnibus  
10 Bond Authorization Act of 2011 and, together with any Act authorizing the issuance of  
11 refunding bonds and Act 41 of the 2006 First Extraordinary Session, shall provide bond  
12 authorization, as required by Article VII, Section 6 of the Constitution of Louisiana, for  
13 those projects to be funded totally or partially by the sale of general obligation bonds and  
14 included in House Bill No. 2 of the 2011 Regular Session as finally enacted into law (2011  
15 Capital Outlay Act). It is the further intent of the legislature that in this year and each year  
16 hereafter an Omnibus Bond Authorization Act shall be enacted providing for the repeal of  
17 state general obligation bond authorizations for projects no longer found feasible or  
18 desirable, the reauthorization of those bonds not sold during the prior fiscal year for projects  
19 deemed to be of such priority as to warrant such reauthorization, and to enact new  
20 authorization for projects found to be needed for capital improvements.

21 Section 3. Except as hereinafter provided, all prior Acts of the legislature authorizing  
22 the issuance of general obligation bonds of the state of Louisiana shall be and the same are  
23 hereby repealed in their entirety, including without limitation House Bill No. 3 of the 2010  
24 Regular Session of the Louisiana Legislature as finally enacted into law (2010 Omnibus  
25 Bond Authorization Act) and any Acts heretofore repealed with such Act. This repeal shall  
26 not be applicable to any Act providing for the issuance of refunding bonds nor to Act 41 of  
27 the 2006 First Extraordinary Session, and such Acts shall remain in full force and effect and  
28 shall not be affected by the provisions of this Act. In addition, the repeal shall not in any  
29 manner affect the validity of any bonds heretofore issued pursuant to any of the bond  
30 authorizations repealed hereby.

1           Section 4. To provide funds for certain capital improvement projects the State Bond  
2 Commission is hereby authorized pursuant to Article VII, Section 6 of the Constitution of  
3 Louisiana to issue general obligation bonds or other general obligations of the state for  
4 capital improvements for the projects, and subject to any terms and conditions set forth on  
5 the issuance of bonds or the expenditure of monies for each project as is provided for in the  
6 2011 Capital Outlay Act.

7           Section 5.(A) To provide funds for certain capital improvement projects authorized  
8 prior to this Act and by this Act, which projects are designed to provide for reimbursement  
9 of debt service on general obligation bonds, the State Bond Commission is hereby authorized  
10 pursuant to Article VII, Section 6 of the Constitution of Louisiana, to issue general  
11 obligation bonds of the state, hereinafter referred to as "project bonds", for capital  
12 improvements for the projects and subject to any terms and conditions set forth on the  
13 issuance of bonds or the expenditure of monies for each such project as provided in the 2011  
14 Capital Outlay Act the terms of which require such reimbursement of debt service.

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

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

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

27 This authorization shall provide for the dates, amounts, and other details for the payments  
28 required to be made to the state treasury and for the reserve account. The authorization may  
29 contain such covenants with the State Bond Commission regarding the fixing of rates for  
30 fees and charges or revenues and such other covenants and agreements with the State Bond

1 Commission as will assure the required payments to the state treasury. The contract shall  
2 be subject to approval by the Office of the Attorney General and the State Bond Commission  
3 and, when so accepted and approved, shall conclusively constitute and be the reimbursement  
4 contract for an authorized project, as required hereunder.

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

1 (E) In addition to the other payments herein required, reimbursement contracts shall  
2 provide for the setting aside of sufficient student fees or revenues or other revenues in a  
3 reserve fund, so that within a period of not less than ten years from date of issuance of  
4 project bonds there shall be accumulated in a reserve fund monies equal to a sum not less  
5 than the average annual debt service requirements on such project bonds. Monies in the  
6 reserve fund shall be used for the purpose of remedying or preventing a default in making  
7 the required payments under a reimbursement contract. The reserve fund required  
8 hereunder may consist of a reserve fund heretofore or hereafter established to secure  
9 payments for reimbursement bonds of the applicable management board, governing body,  
10 or state agency, provided that (1) payments from said reserve fund to secure the payments  
11 required to be made under a reimbursement contract shall be on a parity with the payments  
12 to be made securing outstanding bonds and additional parity bonds and (2) no additional  
13 parity reimbursement bonds shall be issued except pursuant to the establishment and  
14 maintenance of an adequate reserve fund as approved by the State Bond Commission.

15 (F) When the balance of reimbursement bond proceeds, for a project, are allocated  
16 to another project, the State Bond Commission is authorized to make the appropriate  
17 amendment to the reimbursement contract with the agency making the reimbursement  
18 payments.

19 Section 6. The bonds authorized to be sold by the State Bond Commission pursuant  
20 to this Act shall be issued and sold in conformity with the provisions of Article VII, Section  
21 6 of the Louisiana Constitution, R.S. 39:1361 through R.S. 39:1367, and R.S. 39:1401  
22 through R.S. 39:1430.1, and any amendments thereto adopted prior to, at the same time as,  
23 or subsequent to, the effective date of this Act. However, the provisions of R.S. 39:1365(9)  
24 shall not apply to any bonds issued hereunder in the form of variable rate and/or tender  
25 option bonds and that said bonds need not be issued in serial form and may mature in such  
26 year or years as may be specified by the State Bond Commission. Should any provision of  
27 this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the  
28 provision of this Act shall govern. In connection with the issuance of the bonds authorized  
29 hereby, the State Bond Commission may, without regard to any other laws of the state  
30 relating to the procurement of services, insurance, or facilities, enter into contracts upon such

1 terms as it deems advantageous to the state for (1) the obtaining of credit enhancement or  
2 liquidity devices designed to improve the marketability of the bonds and (2) if the bonds are  
3 structured as variable rate and/or tender option bonds to provide the services and facilities  
4 required for or deemed appropriate by the State Bond Commission for such type of bonds,  
5 including those of tender agents, placement agents, indexing agents, remarketing agents,  
6 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or  
7 liquidity devices and fees for other services set forth in this Section shall, if authorized by  
8 the State Bond Commission, be paid from the Bond Security and Redemption Fund as a  
9 requirement with respect to the issuance of the bonds authorized hereby. The bonds shall  
10 be general obligations of the state of Louisiana, to the payment of which, as to principal,  
11 premium, if any, and interest, as and when the same become due, the full faith and credit of  
12 the state is hereby irrevocably pledged. These bonds shall be secured by monies in the Bond  
13 Security and Redemption Fund and shall be payable on a parity with bonds and other  
14 obligations heretofore and hereafter issued which are secured by that fund. The maximum  
15 interest rate or rates on such bonds, and their maturities, shall be determined by the State  
16 Bond Commission. The state treasurer shall invest all bond proceeds until disbursed.

17 Section 7. Unless specifically repealed, this Act shall expire, and be considered null  
18 and void and of no further effect on June 30, 2012, except as to any bonds authorized herein  
19 (1) which have been sold, (2) to which lines of credit have been issued, or (3) for which  
20 contracts for construction have been signed.

21 Section 8. This Act shall become effective upon signature by the governor or, if not  
22 signed by the governor, upon expiration of the time for bills to become law without signature  
23 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If  
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
25 effective on the day following such approval.

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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Greene

HB No. 3

**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; provides for related matters.

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