

5:30 –4
LOCAL FINANCE BOARD - CAPITAL BUDGETS AND CAPITAL
IMPROVEMENT PROGRAMS

5:30-4.1 Authority and application

- (a) This subchapter is adopted by the Local Finance Board pursuant to its powers authorized at N.J.S.A. 52:27BB-10, 52:27BB-32, and 40A:4-43 to 45.
- (b) This subchapter shall apply to all local units, and it shall be the duty of the governing body of each local unit to comply.

5:30-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"*Annual budget*" means the Official Budget required to be adopted by the Local Budget Law, and which for purposes of this subchapter includes a separate section known as the Capital Budget and Capital Improvement Program.

"*Capital budget*" means the first year of a capital program.

"*Capital program*" means a moving, multi-year plan and schedule for capital projects, including prospective financing sources and, when pertinent, first year operating costs and savings.

"*Capital project*" means any of the following, with an expected useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of major equipment, furniture, or other personal property;
3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures, improvements or public works;
4. Any other matter described in N.J.S.A. 40A:2-22;

"*Director*" means the Director of the Division of Local Government Services or his designated representative.

"*Financing sources*" means any of the following, in any combination, from which moneys are provided to finance capital projects:

1. Appropriations in the annual budget(s) of the current, utility or enterprise, capital or other fund;
2. Bonds or notes;

3. Appropriations from the Capital Improvement Fund or any other funds or reserves;
4. State or Federal aid;
5. Private contributions, bequests, etc.

"Local unit" means any county or municipality.

5:30-4.3 When required

- (a) Every local unit shall prepare and adopt a capital budget, in conjunction with its annual operating budget, for any year in which it proposes to undertake a capital project. Inclusion of the following in the annual budget for the year shall, as a minimum, demonstrate the necessity of adopting a capital budget: appropriations for capital improvement fund, specific capital line items or down payments.
- (b) No local unit shall adopt a bond ordinance unless:
 1. It has already adopted a capital budget as part of the annual budget; or
 2. If prior to final adoption of the annual budget, by adoption of a temporary capital budget which subsequently shall be included in the annual budget; or
 3. If a need is determined after adoption of the annual budget, by adoption of a capital budget or an amendment to the capital budget.
- (c) Every local unit which adopts a capital budget shall also adopt a capital program, as provided below, or add a year to an existing capital program to replace the budget year. The capital program shall be submitted to the director with the capital budget.
- (d) Notwithstanding (a) above to the contrary, a local unit that owns a water system shall prepare and adopt a capital budget for each budget year.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-4.4 Method of adoption

- (a) Any capital budget or capital improvement program that is to be adopted shall:
 1. Be assembled and prepared by the officer(s) responsible for preparing the annual budget, provided that the provisions of N.J.S.A. 40:55D-29, permitting the governing body to authorize the planning board to prepare a suggested capital improvement program, are considered.
 2. Be adopted by the affirmative vote of a majority of the full authorized membership of the governing body.
 3. Be referred to the planning board, if it affects the adopted master plan, at least 45 days prior to adoption. (See N.J.S.A. 40:55D-31 for full provisions.) Observance of this requirement would suggest notification to

the planning board by January 10 for counties and February 3 for municipalities.

4. Be treated as part of the Official Budget and shall be published as part of it.
5. When an initial adoption or amendment is needed outside of the normal budget adoption procedure, the following should be observed:
 - i. Planning board review: As described above, this is optional at governing body discretion per N.J.S.A. 40:55D-29, except that it is mandatory per N.J.S.A. 40:55D-31 if the project affects the master plan (consult local attorney for guidance);
 - ii. Use of the Standard forms described below;
 - iii. Adoption by resolution;
 - iv. Same majority vote;
 - v. Publication in local newspaper;
 - vi. The following is an amendment Filing with the Director for review and certification.

(b) An amendment to the Capital Budget must be approved by resolution of the governing body for the following:

1. To change priority of a specific project and use such funds for a new unrelated project.
2. To fund new projects not previously considered.
3. A copy of the ordinance authorizing the project must contain the following statement:

"The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of an inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services as on file with the (municipal clerk) (Clerk of the Board of Chosen Freeholders) and is available for public inspection."

4. A certified copy of the resolution shall be submitted in duplicate to the Director, Division of Local Government Services.

5:30-4.5 Forms and content

- (a) The director shall provide forms as part of the annual budget document. These forms are mandatory, except that the director, at his discretion, may authorize the use of other forms that provide substantially the same information. Prior written approval shall be sought.

(b) The capital budget shall include by title all projects scheduled for startup in the current budget year or for continuation/completion from prior years, the amounts appropriated and the anticipated financing by source and amount.

(c) Capital program forms rules are as follows.

1. The capital program shall include by title all projects anticipated for the budget year and two or more additional years, as provided below, with the estimated costs and the anticipated financing by sources and amounts:

Population	Minimum Program Period
Under 10,000.....	3 years
Over 10,000.....	6 years

2. A municipality with population under 10,000 that does not own a water system may discontinue annual capital program submissions whenever it shall, in compliance with the terms of this section, have had no capital budgets for three consecutive years provided that the capital program shall be reinstated when a capital budget is adopted.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-4.6 Review and certification

(a) In reviewing a local unit's annual budget, the Director shall determine whether a capital budget and program are required, and if so, whether it has been included in the proper form. This review shall not extend to any determination as to the sufficiency or wisdom of its content except that, in the case of a local unit that owns its own water system, the capital budget and program shall identify the capital infrastructure improvement projects to be undertaken in accordance with the local unit's asset management plan pursuant to N.J.S.A. 58:31-7, along with the estimated costs and the anticipated financing by sources and amounts.

(b) If the required capital budget and programs are not included in accordance with the requirements of this regulation, approval of the entire budget may be withheld, pending local corrective action.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-4.7 Capital expenditures proscribed

Pursuant to N.J.S.A. 40A:4-44, no local unit shall make appropriations or authorize expenditures or obligations for capital projects in the absence of an adopted capital budget or other than in accordance therewith, except for the preliminary expenses of plans, specifications, and estimates. With respect to capital infrastructure improvement projects to be undertaken in accordance with the local unit's asset management plan pursuant to

N.J.S.A. 58:31-7, the Director may take into account the local unit's fiscal circumstances in determining appropriate measures for corrective action.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-4.8 Director's action

The director is authorized to advise local units of the requirements and purposes of this regulation, to issue such forms and provide such guidance as may be necessary, and to take such other steps as may, in his judgment, be necessary to effectuate the purposes of this regulation in light of the need for orderly overall fiscal administration.

5:30-4.9 (Reserved)