

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

2.19.09

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 09-0875.01 Jerry Barry

COMMITTEE BILL

Capital Development Committee

SHORT TITLE: "Higher Ed Capital Construction Approval"

A BILL FOR AN ACT

101 **CONCERNING THE PROCESS FOR APPROVING CAPITAL CONSTRUCTION**
102 **PROJECTS AT STATE INSTITUTIONS OF HIGHER EDUCATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Capital Development Committee. Requires the Colorado commission on higher education (commission) to review each capital construction project (project) at a state institution of higher education (institution) that is estimated to cost more than \$2 million and that is constructed, operated, and maintained using moneys other than state general fund or student tuition moneys. Instructs the commission to hold a public hearing. Requires the institution to notify certain members of the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

general assembly prior to the hearing. Directs the commission to approve the project if it meets specified conditions. Authorizes the institution to proceed with the project once approved by the commission.

Requires the commission to review any project at an institution that is estimated to cost more than \$2 million and that is constructed using moneys other than state general fund or student tuition moneys but may be operated or maintained using state general fund or student tuition moneys. Instructs the commission to hold a public hearing. Requires the institution to notify certain members of the general assembly prior to the hearing. Directs the commission to approve the project if it meets specified conditions. Directs the commission to refer approved projects simultaneously to the capital development committee (CDC) and the joint budget committee (JBC) of the general assembly. Authorizes the institution to proceed with the project once approved by the commission, the CDC, and the JBC.

Includes projects with an estimated cost of over \$2 million that do not require approval of the CDC or JBC within the list of projects required to be reported by the institution to the commission and by the commission to the general assembly.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 23-1-106 (5) (a), (9), (10), and (11), Colorado
3 Revised Statutes, are amended to read:

4 **23-1-106. Duties and powers of the commission with respect**
5 **to capital construction and long-range planning.** (5) (a) The
6 commission shall approve plans for any capital construction project at any
7 institution, including a community college , regardless of the source
8 of funds; except that the commission need not approve plans for any
9 capital construction project at a local district college or area vocational
10 school or for any capital construction project ~~described in subsection (9)~~
11 ~~or (10) of this section~~ ESTIMATED TO REQUIRE TOTAL EXPENDITURES OF
12 TWO MILLION DOLLARS OR LESS THAT IS TO BE CONSTRUCTED USING
13 MONEYS HELD BY THE INSTITUTION OTHER THAN STATE GENERAL FUND
14 MONEYS OR STUDENT TUITION MONEYS.

1 (9) (a) The commission shall review and approve any plan for a
2 capital construction project that is estimated to require total expenditures
3 exceeding two million dollars and that is to be constructed, operated, and
4 maintained solely from ~~student fees, auxiliary facility funds, wholly~~
5 ~~endowed gifts and bequests, research building revolving funds, or a~~
6 ~~combination of such sources, as provided in sections 23-5-102, 23-5-103,~~
7 ~~23-5-112, 23-20-124, 23-31-129, and 23-41-117 and section 24-75-303~~
8 ~~(3), C.R.S. MONEYS HELD BY THE STATE-SUPPORTED INSTITUTION OF~~
9 ~~HIGHER EDUCATION OTHER THAN STATE GENERAL FUND MONEYS OR~~
10 ~~STUDENT TUITION MONEYS. Any such plan for a capital construction~~
11 ~~project that is estimated to require total expenditures of two million~~
12 ~~dollars or less shall not be subject to review or approval by the~~
13 ~~commission.~~

14 (b) ~~Upon approval of a plan for a capital construction project~~
15 ~~pursuant to paragraph (a) of this subsection (9), the commission shall~~
16 ~~submit such plan to the capital development committee. The capital~~
17 ~~development committee shall make a recommendation regarding the~~
18 ~~project to the joint budget committee. Following receipt of the~~
19 ~~recommendation, the joint budget committee shall refer its~~
20 ~~recommendations regarding the project, with written comments, to the~~
21 ~~commission. THE COMMISSION SHALL HOLD A PUBLIC HEARING PRIOR TO~~
22 ~~APPROVING A PROJECT PURSUANT TO THIS SUBSECTION (9). PRIOR TO THE~~
23 ~~HEARING, THE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION~~
24 ~~SHALL NOTIFY ALL MEMBERS OF THE GENERAL ASSEMBLY WHO REPRESENT~~
25 ~~THE COUNTY IN WHICH THE INSTITUTION IS LOCATED.~~

26 (c) (I) ~~The commission, the capital development committee, and~~
27 ~~the joint budget committee shall by agreement adopt procedures~~

1 governing the capital development committee and joint budget committee
2 review of projects subject to this subsection (9) and subsection (10) of
3 this section, which agreement shall provide that, whenever possible, the
4 capital development committee shall submit recommendations to the joint
5 budget committee and the joint budget committee shall submit
6 recommendations to the commission within thirty days after each
7 committee receives the information prescribed in the agreement as
8 necessary for its review. THE COMMISSION SHALL APPROVE A PLAN FOR
9 A CAPITAL CONSTRUCTION PROJECT SUBMITTED TO THE COMMISSION BY A
10 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION PURSUANT TO
11 PARAGRAPH (a) OF THIS SUBSECTION (9) IF IT FINDS THAT:

12 (A) THE PROJECT IS CONSISTENT WITH THE MASTER PLANNING AND
13 PROGRAM PLANNING APPROVED FOR THE INSTITUTION PURSUANT TO
14 SUBSECTION (3) OF THIS SECTION;

15 (B) THE INSTITUTION HAS A REASONABLE PLAN TO ENSURE THAT
16 THE PROJECT SHALL NOT REQUIRE THE EXPENDITURE OF ANY STATE
17 GENERAL FUND MONEYS OR STUDENT TUITION MONEYS TO PAY FOR THE
18 CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT; AND

19 (C) IF THERE IS ANY PUBLIC OPPOSITION TO THE PROJECT, THE
20 INSTITUTION HAS CONSIDERED THE OPPOSITION, BUT DETERMINED THE
21 PROJECT IS IN THE BEST INTERESTS OF THE INSTITUTION.

22 (II) ONCE APPROVED BY THE COMMISSION PURSUANT TO THIS
23 SUBSECTION (9), THE INSTITUTION MAY PROCEED WITH THE PROJECT.

24 (d) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A PROJECT
25 APPROVED BY THE COMMISSION PURSUANT TO THIS SUBSECTION (9) SHALL
26 NOT BE ELIGIBLE FOR ANY STATE GENERAL FUND MONEYS OR STUDENT
27 TUITION MONEYS TO PAY FOR CONSTRUCTION, OPERATION, OR

1 MAINTENANCE FOR A PERIOD OF AT LEAST FIFTEEN YEARS.

2 (10) (a) The commission shall review and approve any plan for a
3 capital construction project that is estimated to require total expenditures
4 exceeding two million dollars and that is to be constructed solely from
5 ~~cash funds~~ MONEYS held by the institution other than ~~those funds~~
6 ~~specified in paragraph (a) of subsection (9) of this section and~~ STATE
7 GENERAL FUND MONEYS OR STUDENT TUITION MONEYS BUT MAY BE
8 operated and maintained ~~from such cash funds or from~~ USING ANY
9 MONEYS HELD BY THE INSTITUTION, INCLUDING BUT NOT LIMITED TO state
10 GENERAL FUND moneys appropriated for such purpose ~~or both~~ OR
11 STUDENT TUITION MONEYS. Any plan for any such capital construction
12 project that is estimated to require total expenditures of two million
13 dollars or less shall not be subject to review or approval by the
14 commission.

15 (a.3) THE COMMISSION SHALL HOLD A PUBLIC HEARING PRIOR TO
16 APPROVING A PROJECT PURSUANT TO THIS SUBSECTION (10). PRIOR TO THE
17 HEARING, THE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION
18 SHALL NOTIFY ALL MEMBERS OF THE GENERAL ASSEMBLY WHO REPRESENT
19 THE COUNTY IN WHICH THE INSTITUTION IS LOCATED.

20 (a.7) THE COMMISSION SHALL APPROVE A PLAN FOR A CAPITAL
21 CONSTRUCTION PROJECT SUBMITTED TO THE COMMISSION BY A
22 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION PURSUANT TO
23 PARAGRAPH (a) OF THIS SUBSECTION (10) IF IT FINDS THAT:

24 (I) THE PROJECT IS CONSISTENT WITH THE MASTER PLANNING AND
25 PROGRAM PLANNING APPROVED FOR THE INSTITUTION PURSUANT TO
26 SUBSECTION (3) OF THIS SECTION;

27 (II) THE INSTITUTION HAS A REASONABLE PLAN TO ENSURE THAT

1 THE PROJECT SHALL NOT REQUIRE THE EXPENDITURE OF ANY STATE
2 GENERAL FUND MONEYS OR STUDENT TUITION MONEYS TO PAY FOR THE
3 CONSTRUCTION OF THE PROJECT; AND

4 (III) IF THERE IS ANY PUBLIC OPPOSITION TO THE PROJECT, THE
5 INSTITUTION HAS CONSIDERED THE OPPOSITION, BUT HAS DETERMINED THE
6 PROJECT IS IN THE BEST INTERESTS OF THE INSTITUTION.

7 (b) Upon approval of a plan for a capital construction project
8 pursuant to paragraph ~~(a)~~ (a.7) of this subsection (10), the commission
9 shall submit the plan SIMULTANEOUSLY to BOTH the capital development
10 committee AND THE JOINT BUDGET COMMITTEE OF THE GENERAL
11 ASSEMBLY. AFTER THE PROJECT IS APPROVED BY BOTH the capital
12 development committee ~~shall make a recommendation regarding the~~
13 ~~project to the joint budget committee. Following the receipt of the~~
14 ~~recommendation; AND the joint budget committee, shall refer its~~
15 ~~recommendations regarding the project, with written comments, to the~~
16 ~~commission~~ THE INSTITUTION MAY PROCEED WITH THE PROJECT.

17 (c) THE COMMISSION, THE CAPITAL DEVELOPMENT COMMITTEE,
18 AND THE JOINT BUDGET COMMITTEE SHALL BY AGREEMENT ADOPT
19 PROCEDURES GOVERNING THE CAPITAL DEVELOPMENT COMMITTEE AND
20 JOINT BUDGET COMMITTEE REVIEW OF PROJECTS SUBJECT TO THIS
21 SUBSECTION (10), WHICH AGREEMENT SHALL PROVIDE THAT, WHENEVER
22 POSSIBLE, THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT
23 BUDGET COMMITTEE SHALL SUBMIT RECOMMENDATIONS TO THE
24 COMMISSION WITHIN THIRTY DAYS AFTER EACH COMMITTEE RECEIVES THE
25 INFORMATION PRESCRIBED IN THE AGREEMENT AS NECESSARY FOR ITS
26 REVIEW.

27 (11) (a) Each institution shall submit to the commission on or

1 before September 1 of each year a list and description of each project for
2 which an expenditure was made during the immediately preceding fiscal
3 year that:

4 (I) Was ESTIMATED TO COST TWO MILLION DOLLARS OR LESS AND
5 THEREFORE WAS not subject to review by the commission pursuant to
6 subsections SUBSECTION (9) and OR (10) of this section; OR

7 (II) WAS SUBJECT TO COMMISSION APPROVAL PURSUANT TO
8 SUBSECTION (9) OF THIS SECTION.

9 (b) The commission shall submit a compilation of such projects
10 to the capital development committee AND TO THE JOINT BUDGET
11 COMMITTEE on or before December 1 of each year.

12 **SECTION 2.** 24-75-303 (3) (a), Colorado Revised Statutes, is
13 amended to read:

14 **24-75-303. Appropriation for capital construction.** (3) (a) No
15 capital construction project for a state-supported institution of higher
16 education that is estimated to require total expenditures exceeding two
17 million dollars may be commenced unless:

18 (I) The project is to be constructed solely from ~~cash funds~~
19 MONEYS held by the institution other than ~~those funds specified in~~
20 ~~subparagraph (H) of this paragraph (a)~~ STATE GENERAL FUND MONEYS OR
21 STUDENT TUITION MONEYS and is to be operated and maintained SOLELY
22 from ~~such cash funds or from state moneys appropriated for such purpose;~~
23 ~~or both~~, HELD BY THE INSTITUTION OTHER THAN STATE GENERAL FUND
24 MONEYS OR STUDENT TUITION MONEYS and the plan for the project has
25 been approved by the Colorado commission on higher education pursuant
26 to section ~~23-1-106 (10)~~ 23-1-106 (9), C.R.S.; or

27 (II) The project is to be constructed ~~operated, and maintained~~

1 solely from ~~student fees, auxiliary enterprise funds, wholly endowed gifts~~
2 ~~and bequests, research building revolving funds, or a combination of such~~
3 ~~sources~~; MONEYS HELD BY THE INSTITUTION OTHER THAN STATE GENERAL
4 FUND MONEYS OR STUDENT TUITION MONEYS BUT MAY BE OPERATED OR
5 MAINTAINED USING ANY MONEYS HELD BY THE INSTITUTION, INCLUDING
6 BUT NOT LIMITED TO STATE MONEYS OR STUDENT TUITION MONEYS, and
7 the plan has been approved by the Colorado commission on higher
8 education, THE CAPITAL DEVELOPMENT COMMITTEE, AND THE JOINT
9 BUDGET COMMITTEE in accordance with section ~~23-1-106 (9)~~ 23-1-106
10 (10), C.R.S.

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety. <{Does the
14 committee want a safety clause?}>