

**TOPIC: CHANGES TO EXISTING POLICIES: SECTION III CAPITAL ASSETS**

**PREPARED BY: RYAN STUBBS**

## **I. SUMMARY**

This action item amends CCHE policies concerning capital assets (Section III) to comply with 2008 legislative changes as enacted by HB08-1205. HB08-1205 created substantive changes in C.R.S. 23-1-106, duties and powers of the commission, with respect to capital construction and long-range planning. This new law makes the following changes in the Commission's capital process:

- Increases the dollar threshold for capital construction projects exempt from program planning to those less than \$2 million for all higher education capital construction projects, regardless of funding source;
- Allows for cash-funded projects (those constructed with institution cash funds, but eligible for state operating and controlled maintenance funds) to be approved by the Capital Development Committee (CDC) and Joint Budget Committee (JBC) at any time during the year without inclusion in the Long Bill; and
- Exempts cash-funded projects from the six-month encumbrance rule, which otherwise requires all professional services (architecture and engineering) to be encumbered six months after approval.

In order for Commission policies to comply with the above changes, it is necessary to amend Parts E, J, M and Q in Section III of current commission policies. Proposed policy revisions are shown clearly in Attachments A, B, C and D to this agenda item. Additionally, the changes as shown in these attachments update the name of 'State Building and Real Estate Programs' to 'The Office of the State Architect' to reflect the current name of this office.

## **II. STAFF ANALYSIS**

All proposed policy changes are minor, but necessary to bring policies in line with revised Colorado laws. All policy issues with regard to these changes have been vetted with the Commission, since both pieces of legislation were initiated within the Department of Higher Education. Overall, these changes should increase efficiencies within the capital construction process for state-supported institutions of higher education in Colorado.

### **III. BACKGROUND**

Below are the substantive changes to C.R.S. 23-1-106 (duties and powers of the commission with respect to capital construction and long-range planning) as published in HB08-1205.

**SECTION 1.** *23-1-106 (5) (b), (9) (a), (9) (c), and (10), Colorado Revised Statutes, are amended to read:***23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning.** *(5) (b) The commission may except from the requirements for program and physical planning any project that shall require less than five hundred thousand TWO MILLION dollars of state moneys.*

*(9) (a) The commission shall review and approve any plan for a capital construction project that is estimated to require total expenditures exceeding one TWO million dollars and that is to be constructed, operated, and maintained solely from student fees, auxiliary facility funds, wholly endowed gifts and bequests, research building revolving funds, or a combination of such sources, as provided in sections 23-5-102, 23-5-103, 23-5-112, 23-20-124, 23-31-129, and 23-41-117 and section 24-75-303 (3), C.R.S. Any such plan for a capital construction project that is estimated to require total expenditures of one TWO million dollars or less shall not be subject to review or approval by the commission.*

*(c) The commission, the capital development committee, and the joint budget committee shall by agreement adopt procedures governing the capital development committee and joint budget committee review of projects subject to this subsection (9) AND SUBSECTION (10) OF THISSECTION, which agreement shall provide that, whenever possible, the capital development committee shall submit recommendations to the joint budget committee and the joint budget committee shall submit recommendations to the commission within thirty days after each committee receives the information prescribed in the agreement as necessary for its review.*

*(10) (a) The commission shall review and approve any plan for a capital construction project that is estimated to require total expenditures exceeding five hundred thousand TWO MILLION dollars and that is to be constructed solely from cash funds held by the institution other than those funds specified in paragraph (a) of subsection (9) of this section and operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both. Any plan for any such capital construction project that is estimated to require total expenditures of five hundred thousand TWO MILLION dollars or less shall not be subject to review or approval by the commission.*

*(b) UPON APPROVAL OF A PLAN FOR A CAPITAL CONSTRUCTION PROJECT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10), THE COMMISSION SHALL SUBMIT THE PLAN TO THE CAPITAL DEVELOPMENT COMMITTEE. THE CAPITAL DEVELOPMENT COMMITTEE SHALL MAKE A RECOMMENDATION REGARDING THE PROJECT TO THE JOINT BUDGET COMMITTEE. FOLLOWING THE RECEIPT OF THE RECOMMENDATION, THE JOINT BUDGET COMMITTEE SHALL REFER ITS RECOMMENDATIONS REGARDING THE PROJECT, WITH WRITTEN COMMENTS, TO THE COMMISSION.*

**SECTION 2.** *24-30-1404 (7) (a), Colorado Revised Statutes, is amended, and the said 24-30-1404 (7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read: PAGE 3-HOUSE BILL 08-1205*

**24-30-1404. Contracts.** *(7) (a) Except as provided in paragraphs (b), (c), (e), and (f), (b), (c), (e), (f), AND (g) of this subsection (7), any professional services contract entered into pursuant to the provisions of this part 14 shall be executed and encumbered within six months after the date on which the appropriation that includes the project for which the professional services are required becomes law. If no professional services contract is required for a particular project, the contract with the contractor for the project shall be entered into within six months after the appropriation. If a state agency determines that the nature of a particular project is such that the deadlines imposed by this section cannot be met, the state agency may request the capital development committee to recommend to the controller that the deadline be waived for that project. The controller, in consultation with the capital development committee, may grant a waiver from such deadlines. This subsection (7) shall not apply to projects under the supervision of the department of transportation. This subsection (7) shall not affect any priority established pursuant to section 24-35-210 (11) in the general appropriation act for expenditures for projects to be financed from net lottery proceeds appropriated for capital construction.*

*(g) THIS SUBSECTION (7) SHALL NOT APPLY TO A CAPITAL CONSTRUCTION PROJECT AT AN INSTITUTION OF HIGHER EDUCATION THAT IS TO BE CONSTRUCTED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION.*

#### **IV. STAFF RECOMMENDATION**

**Staff recommends that the Commission adopt the policy revisions to Section III, Parts E, J, M and Q as shown on the Attachments to this agenda item.**

**STATUTORY AUTHORITY**

C.R.S. 23-1-106 Duties and powers of the commission with respect to capital construction and long-range planning.

**ATTACHMENT A (Section III, Part E)**

**ATTACHMENT B (Section III, Part J)**

**ATTACHMENT C (Section III, Part M)**

**ATTACHMENT D (Section III, Part Q)**