

TOPIC: CHANGES TO EXISTING POLICIES: SECTION III CAPITAL ASSETS

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I. SUMMARY

This agenda item amends CCHE policies concerning capital assets (Section III) to comply with 2009 legislative changes as enacted by SB09-290. SB09-290 created substantive changes in C.R.S. 23-1-106, duties and powers of the commission with respect to cash funded capital construction and long-range planning. This new law creates the following changes in the Commission's capital process:

- Divides the existing five-year capital construction list into two new lists;
- Expands the existing two categories of cash funded projects into four categories;
- Revises the categories of projects that require CCHE review;
- Clearly states which projects are eligible for state Controlled Maintenance funds;
- Requires additional reporting criteria for governing boards.

In order for Commission policies to comply with the above changes, it is necessary to amend Parts A, E, J, M and Q in Section III of current commission policies. Proposed policy changes are shown in Attachments A, B, C, D and E to this agenda item.

II. STAFF ANALYSIS

The proposed policy changes are entirely due to changes in statute. Policy issues related to these changes were vetted with Department staff during legislative debate over the legislation. It is the intent of the General Assembly's Capital Development Committee and the governing boards that these changes will increase efficiencies within the cash funded capital construction process for state-supported institutions of higher education in Colorado.

Specific changes to C.R.S. 23-1-106 include the following:

SB09-290

- Divides the existing five-year capital construction list into two new lists [CRS 23-1-106 (6) and (7)]:
 - Five-year list for state funds unified and prioritized by governing board;
 - Two-year list for cash funds unified and unprioritized by governing board.
- Expands the existing two categories of cash funded projects into four categories [C.R.S. 23-1-106 (9) and (10)], as follows:
 - Non-Intercept Academic Cash projects - Projects that are to be constructed solely with cash funds that are not subject to the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139), that are operated and maintained out of state

operational funds, cash funds or a combination of both, and are academic in nature.

- Non-Intercept Auxiliary Cash projects - Projects that are to be constructed solely with cash funds that are not subject to the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139), that are constructed, operated and maintained out of cash funds only, and are auxiliary in nature.
- Intercept Academic Cash projects - Projects that are to be constructed solely with cash funds that are subject, in whole or in part, to the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139), that are maintained out of state operational funds, cash funds or a combination of both, and are academic in nature. Program plans are required for those projects estimated to cost more than \$2 million and can be submitted at any time during the year.
- Intercept Auxiliary Cash projects - Projects that are to be constructed solely with cash funds that are subject, in whole or in part, to the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139), that are maintained out of cash funds. Program plans are required for those projects estimated to cost more than \$2 million and can be submitted at any time during the year.
- Revises the categories of projects that require CCHE review [C.R.S. 23-1-106 (9) and (10)]:
 - All 100% cash funded projects that anticipate commencing in the next two years are required to be on the two-year list. This list is reviewed by the Commission and forwarded to the legislature's Capital Development Committee;
 - Non-Intercept Auxiliary and Non-Intercept Academic projects do not receive any additional review beyond the two-year list from the Commission, the Capital Development Committee, nor the Joint Budget Committee;
 - Intercept Auxiliary and Intercept Academic projects continue to require program plan review and approval by the Commission before being forwarded to the Capital Development Committee and joint Budget Committee for recommendation.
- Clearly states which projects are eligible for state Controlled Maintenance funds:
 - Eligible for Controlled Maintenance: Intercept Academic projects and Non-Intercept Academic projects;
 - Not eligible for Controlled Maintenance: Intercept Auxiliary projects and Non-Intercept Auxiliary projects.
- Requires additional reporting criteria for governing boards [C.R.S. 23-1-106 (11)]
 - Governing boards must annually submit to CCHE a list of all projects, descriptions, and expenditures for the preceding year, that commenced under C.R.S. 23-1-106 (9) and (10);
 - This reporting is in addition, but concurrent, to the annual Small Projects Report (also known as 209 projects).

The changes in governing board lists submitted to CCHE took effect July 1, 2009. The changes in project categories, project review, and additional reporting criteria do not take effect until January 1, 2010.

III. BACKGROUND

During the 2008 legislative session, the passage of HB08-1205 significantly amended C.R.S. 23-1-106 (duties and powers of the commission with respect to capital construction and long-range planning). This legislation established the practice of expedited review; removed submission deadlines for 100% cash funded projects by higher education institutions; raised the dollar threshold for projects exempt from program planning to \$2,000,000; and allowed for academic projects constructed with cash funds to be eligible for state operating and controlled maintenance funds.

These changes to statute were reflected in amendments to Commission policy Section III, Parts E, J, M, and Q in September 2008.

During the 2009 legislative session, higher education institutions sought further flexibility with 100% cash funded capital construction. With the backing of higher education institutions, the legislative Capital Development Committee members sponsored SB09-290. Staff from the Department and the Governor's Office of State Planning and Budgeting were asked for, and provided, technical amendments to the legislation to clarify projects descriptions and applicability of state funded controlled maintenance.

The changes to statute from SB09-290 are now reflected in amendments to Commission policy Section III, Parts A, E, J, M and Q.

IV. STAFF RECOMMENDATION

That the Commission adopt the policy revisions to Section III, Parts A, 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 A

ATTACHMENT B: Section III, Part E

ATTACHMENT C: Section III, Part J

ATTACHMENT D: Section III, Part M

ATTACHMENT E: Section III, Part Q