

CAPITAL DEVELOPMENT AND IMPROVEMENT

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Ron Bigelow

LONG TITLE

General Description:

This bill modifies requirements governing capital developments and capital improvements.

Highlighted Provisions:

This bill:

- ▶ requires the State Building Board's report on capital improvements to contain certain information about single and multiple capital improvement projects;
- ▶ authorizes the State Building Board to phase fund certain capital improvement projects if it first obtains legislative approval; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5-104, as last amended by Laws of Utah 2007, Chapter 12

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63A-5-104** is amended to read:

63A-5-104. Capital development and capital improvement process -- Approval

30 **requirements -- Limitations on new projects -- Emergencies.**

31 (1) As used in this section:

32 (a) "Capital developments" means any:

33 (i) remodeling, site, or utility projects with a total cost of \$2,500,000 or more;

34 (ii) new facility with a construction cost of \$500,000 or more; or

35 (iii) purchase of real property where an appropriation is requested to fund the purchase.

36 (b) "Capital improvements" means any:

37 (i) remodeling, alteration, replacement, or repair project with a total cost of less than

38 \$2,500,000;

39 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

40 (iii) new facility with a total construction cost of less than \$500,000.

41 (c) (i) "New facility" means the construction of any new building on state property
42 regardless of funding source.

43 (ii) "New facility" includes:

44 (A) an addition to an existing building; and

45 (B) the enclosure of space that was not previously fully enclosed.

46 (iii) "New facility" does not mean:

47 (A) the replacement of state-owned space that is demolished or that is otherwise
48 removed from state use, if the total construction cost of the replacement space is less than
49 \$2,500,000; or

50 (B) the construction of facilities that do not fully enclose a space.

51 (d) "Replacement cost of existing state facilities" means the replacement cost, as
52 determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities
53 as defined by the State Building Board.

54 (e) "State funds" means public monies appropriated by the Legislature.

55 (2) The State Building Board, on behalf of all state agencies, commissions,
56 departments, and institutions shall submit its capital development recommendations and
57 priorities to the Legislature for approval and prioritization.

58 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
59 project may not be constructed on state property without legislative approval.

60 (b) Legislative approval is not required for a capital development project if the State
61 Building Board determines that:

62 (i) the requesting higher education institution has provided adequate assurance that:

63 (A) state funds will not be used for the design or construction of the facility; and

64 (B) the higher education institution has a plan for funding in place that will not require
65 increased state funding to cover the cost of operations and maintenance to, or state funding for,
66 immediate or future capital improvements to the resulting facility; and

67 (ii) the use of the state property is:

68 (A) appropriate and consistent with the master plan for the property; and

69 (B) will not create an adverse impact on the state.

70 (c) (i) The Division of Facilities Construction and Management shall maintain a record
71 of facilities constructed under the exemption provided in Subsection (3)(b).

72 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a
73 higher education institution may not request:

74 (A) increased state funds for operations and maintenance; or

75 (B) state capital improvement funding.

76 (d) Legislative approval is not required for:

77 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;

78 (ii) facilities to be built with nonstate funds and owned by nonstate entities within
79 research park areas at the University of Utah and Utah State University;

80 (iii) facilities to be built at This is the Place State Park by This is the Place Foundation
81 with funds of the foundation, including grant monies from the state, or with donated services or
82 materials;

83 (iv) capital projects that are funded by the Navajo Trust Fund Board from Navajo Trust
84 Fund monies and the Uintah Basin Revitalization Fund that do not provide a new facility for a
85 state agency or higher education institution; or

86 (v) capital projects on school and institutional trust lands that are funded by the School
87 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
88 do not fund construction of a new facility for a state agency or higher education institution.

89 (e) (i) Legislative approval is not required for capital development projects to be built
90 for the Department of Transportation as a result of an exchange of real property under Section
91 72-5-111.

92 (ii) When the Department of Transportation approves those exchanges, it shall notify
93 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities
94 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee
95 about any new facilities to be built under this exemption.

96 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,
97 departments, and institutions shall by January 15 of each year, submit a list of anticipated capital
98 improvement requirements to the Legislature for review and approval.

99 (ii) The list shall identify:

100 (A) a single project that costs more than \$1,000,000;

101 (B) multiple projects within a single building or facility that collectively cost more than
102 \$1,000,000;

103 (C) a single project that will be constructed over multiple years with a yearly cost of
104 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

105 (D) multiple projects within a single building or facility with a yearly cost of \$1,000,000
106 or more and an aggregate cost of more than \$2,500,000;

107 (E) a single project previously reported to the Legislature as a capital improvement
108 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost
109 more than \$1,000,000; and

110 (F) multiple projects within a single building or facility previously reported to the
111 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
112 costs or scope of work, will now cost more than \$1,000,000.

113 (b) Unless otherwise directed by the Legislature, the [~~building board~~] State Building

114 Board shall prioritize capital improvements from the list submitted to the Legislature up to the
115 level of appropriation made by the Legislature.

116 (c) In prioritizing capital improvements, the ~~[building board]~~ State Building Board shall
117 consider the results of facility evaluations completed by an architect/engineer as stipulated by
118 the building board's facilities maintenance standards.

119 (d) The ~~[building board]~~ State Building Board may require an entity that benefits from a
120 capital improvement project to repay the capital improvement funds from savings that result
121 from the project.

122 (e) The State Building Board may provide capital improvement funding to a single
123 project, or to multiple projects within a single building or facility, even if the total cost of the
124 project or multiple projects is \$2,500,000 or more, if:

125 (i) the capital improvement project or multiple projects require more than one year to
126 complete; and

127 (ii) the Legislature has affirmatively authorized the capital improvement project or
128 multiple projects to be funded in phases.

129 (5) The Legislature may authorize:

130 (a) the total square feet to be occupied by each state agency; and

131 (b) the total square feet and total cost of lease space for each agency.

132 (6) (a) Except as provided in Subsection (6)(b), the Legislature may not fund the design
133 or construction of any new capital development projects, except to complete the funding of
134 projects for which partial funding has been previously provided, until the Legislature has
135 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

136 (b) (i) As used in this Subsection (6)(b), "operating deficit" means that estimated
137 General Fund or Uniform School Fund revenues are less than budgeted for the current or next
138 fiscal year.

139 (ii) If the Legislature determines that an operating deficit exists, the Legislature may, in
140 eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the
141 replacement cost of state buildings.

142 (7) (a) If, after approval of capital development and capital improvement priorities by
143 the Legislature under this section, emergencies arise that create unforeseen critical capital
144 improvement projects, the State Building Board may, notwithstanding the requirements of Title
145 63, Chapter 38, Budgetary Procedures Act, reallocate capital improvement funds to address
146 those projects.

147 (b) The building board shall report any changes it makes in capital improvement
148 allocations approved by the Legislature to:

- 149 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and
- 150 (ii) the Legislature at its next annual general session.

151 (8) (a) The State Building Board may adopt a rule allocating to institutions and
152 agencies their proportionate share of capital improvement funding.

153 (b) The ~~[building board]~~ State Building Board shall ensure that the rule:

154 (i) reserves funds for the Division of Facilities Construction and Management for
155 emergency projects; and

156 (ii) allows the delegation of projects to some institutions and agencies with the
157 requirement that a report of expenditures will be filed annually with the Division of Facilities
158 Construction and Management and appropriate governing bodies.

159 (9) It is the intent of the Legislature that in funding capital improvement requirements
160 under this section the General Fund be considered as a funding source for at least half of those
161 costs.