

1 **CAPITAL IMPROVEMENT APPROPRIATION**

2 **MODIFICATION**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ron Bigelow**

6 Senate Sponsor: Lyle W. Hillyard

7

LONG TITLE

8 **General Description:**

9 This bill exempts the Legislature from making certain appropriations for capital
10 improvements.
11

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ exempts the Legislature from making certain appropriations for capital
- 15 improvements in the 2008-09 and 2009-10 fiscal years; and
- 16 ▶ makes technical corrections.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides an immediate effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **63A-5-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 3

24

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

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

26 **63A-5-104. Capital development and capital improvement process -- Approval**
27



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

29 (1) As used in this section:

30 (a) "Capital developments" means a:

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

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

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

34 (b) "Capital improvements" means a:

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

36 \$2,500,000;

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

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

39 (c) (i) "New facility" means the construction of a new building on state property

40 regardless of funding source.

41 (ii) "New facility" includes:

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

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

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

45 (A) the replacement of state-owned space that is demolished or that is otherwise

46 removed from state use, if the total construction cost of the replacement space is less than

47 \$2,500,000; or

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

49 (d) "Replacement cost of existing state facilities" means the replacement cost, as

50 determined by the Division of Risk Management, of state facilities, excluding auxiliary

51 facilities as defined by the State Building Board.

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

53 (2) The State Building Board, on behalf of all state agencies, commissions,

54 departments, and institutions shall submit its capital development recommendations and

55 priorities to the Legislature for approval and prioritization.

56 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development

57 project may not be constructed on state property without legislative approval.

58 (b) Legislative approval is not required for a capital development project if the State

59 Building Board determines that:

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

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

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

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

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

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

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

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

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

73 (B) state capital improvement funding.

74 (d) Legislative approval is not required for:

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

76 (ii) a facility to be built with nonstate funds and owned by nonstate entities within
77 research park areas at the University of Utah and Utah State University;

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

81 (iv) a capital project that:

82 (A) is funded by:

83 (I) the Uintah Basin Revitalization Fund; or

84 (II) the Navajo Revitalization Fund; and

85 (B) does not provide a new facility for a state agency or higher education institution; or

86 (v) a capital project on school and institutional trust lands that is funded by the School
87 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
88 does 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
98 capital 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
106 \$1,000,000 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 State Building Board shall
114 prioritize capital improvements from the list submitted to the Legislature up to the level of
115 appropriation made by the Legislature.

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

119 (d) The State Building Board may require an entity that benefits from a capital
120 improvement project to repay the capital improvement funds from savings that result from the

121 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) or (c), the Legislature may not fund the
133 design or construction of any new capital development projects, except to complete the funding
134 of 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):

137 (A) "Education Fund budget deficit" is as defined in Subsection 63J-1-202(1)(a); and

138 (B) "General Fund budget deficit" is as defined in Subsection 63J-1-202(1)(c).

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

142 (c) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09 and
143 2009-10 fiscal years.

144 (7) (a) If, after approval of capital development and capital improvement priorities by
145 the Legislature under this section, emergencies arise that create unforeseen critical capital
146 improvement projects, the State Building Board may, notwithstanding the requirements of Title
147 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
148 those projects.

149 (b) The State Building Board shall report any changes it makes in capital improvement
150 allocations approved by the Legislature to:

151 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

152 (ii) the Legislature at its next annual general session.
153 (8) (a) The State Building Board may adopt a rule allocating to institutions and
154 agencies their proportionate share of capital improvement funding.
155 (b) The State Building Board shall ensure that the rule:
156 (i) reserves funds for the Division of Facilities Construction and Management for
157 emergency projects; and
158 (ii) allows the delegation of projects to some institutions and agencies with the
159 requirement that a report of expenditures will be filed annually with the Division of Facilities
160 Construction and Management and appropriate governing bodies.
161 (9) It is the intent of the Legislature that in funding capital improvement requirements
162 under this section the General Fund be considered as a funding source for at least half of those
163 costs.

164 **Section 2. Effective date.**

165 If approved by two-thirds of all the members elected to each house, this bill takes effect
166 upon approval by the governor, or the day following the constitutional time limit of Utah
167 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
168 the date of veto override.

Legislative Review Note
as of 1-30-09 4:25 PM

Office of Legislative Research and General Counsel

H.B. 300 - Capital Improvement Appropriation Modification

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. Actual impacts are dependent upon legislative appropriations in FY 2009 and FY 2010.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
