

**CAPITAL DEVELOPMENT AND IMPROVEMENT PROCESS
APPROVAL REQUIREMENTS AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Gage Froerer

LONG TITLE

General Description:

This bill amends provisions related to the capital development and improvement process.

Highlighted Provisions:

This bill:

- modifies the circumstances under which legislative approval is not required for a capital development project; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5-104, as last amended by Laws of Utah 2010, Chapter 338

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

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

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



28 -- Approval 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 money 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 ~~H~~→ **that consists**58a **of the design or construction of a new facility** ←~~H~~ if the State

59 Building Board determines that:

60 (i) the requesting ~~[higher education]~~ state agency, commission, department, or
61 institution has provided adequate assurance that:

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

63 (B) the ~~[higher education]~~ state agency, commission, department, or institution has a
64 plan for funding in place that will not require increased state funding to cover the cost of
65 operations and maintenance to, or state funding for, immediate or future capital improvements
66 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]~~ a state agency, commission, department, or 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

78 funds[;] ~~Ĥ→ [; except that legislative approval is required unless the State Building Board makes a~~
79 ~~determination that legislative approval is not required in accordance with Subsection (3)(b) for~~
80 ~~a renovation, remodeling, or retrofitting that is:~~

81 ~~—— (A) a capital development project; or~~

82 ~~—— (B) so substantial that a facility would not be suitable for occupancy or use by a state~~
83 ~~agency, commission, department, or institution without the renovation, remodeling, or~~
84 ~~retrofitting as determined] that has been approved ←Ĥ by the State Building Board;~~

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

87 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation
88 with funds of the foundation, including grant money from the state, or with donated services or
89 materials;

90 (iv) a capital project that:

91 (A) is funded by:

92 (I) the Uintah Basin Revitalization Fund; or

93 (II) the Navajo Revitalization Fund; and

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

95 (v) a capital project on school and institutional trust lands that is funded by the School

96 and Institutional Trust Lands Administration from the Land Grant Management Fund and that

97 does not fund construction of a new facility for a state agency or higher education institution.

98 (e) (i) Legislative approval is not required for capital development projects to be built

99 for the Department of Transportation as a result of an exchange of real property under Section

100 72-5-111.

101 (ii) When the Department of Transportation approves those exchanges, it shall notify

102 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities

103 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee

104 about any new facilities to be built under this exemption.

105 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,

106 departments, and institutions shall by January 15 of each year, submit a list of anticipated

107 capital improvement requirements to the Legislature for review and approval.

108 (ii) The list shall identify:

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

110 (B) multiple projects within a single building or facility that collectively cost more than

111 \$1,000,000;

112 (C) a single project that will be constructed over multiple years with a yearly cost of

113 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

114 (D) multiple projects within a single building or facility with a yearly cost of

115 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

116 (E) a single project previously reported to the Legislature as a capital improvement

117 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost

118 more than \$1,000,000; and

119 (F) multiple projects within a single building or facility previously reported to the

120 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in

121 costs or scope of work, will now cost more than \$1,000,000.

122 (b) Unless otherwise directed by the Legislature, the State Building Board shall
123 prioritize capital improvements from the list submitted to the Legislature up to the level of
124 appropriation made by the Legislature.

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

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

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

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

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

138 (5) The Legislature may authorize:

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

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

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

145 (b) (i) As used in this Subsection (6)(b):

146 (A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

147 (B) "General Fund budget deficit" is as defined in Section 63J-1-312.

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

151 (c) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,

152 2009-10, and 2010-11 fiscal years.

153 (7) (a) If, after approval of capital development and capital improvement priorities by
154 the Legislature under this section, emergencies arise that create unforeseen critical capital
155 improvement projects, the State Building Board may, notwithstanding the requirements of Title
156 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
157 those projects.

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

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

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

164 (b) The State Building Board shall ensure that the rule:

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

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

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

Legislative Review Note
as of 2-16-11 11:16 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 204

SHORT TITLE: **Capital Development and Improvement Process Approval Requirements
Amendments**

SPONSOR: **Adams, J. S.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.