

STATE FACILITIES AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions related to the State Building Board.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the appointment of a director of the State Building Board;
- ▶ modifies the State Building Board's rulemaking authority;
- ▶ exempts facility programming from certain appropriations requirements; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5-101, as last amended by Laws of Utah 2013, Chapter 310

63A-5-103, as last amended by Laws of Utah 2016, Chapter 298

63A-5-104, as last amended by Laws of Utah 2016, Chapter 298

ENACTS:

63A-5-100, Utah Code Annotated 1953



28 [63A-5-101.5](#), Utah Code Annotated 1953

29

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

31 Section 1. Section **63A-5-100** is enacted to read:

32 **63A-5-100. Definitions.**

33 As used in this part, "board" means the State Building Board created under Section
34 [63A-5-101.](#)

35 Section 2. Section **63A-5-101** is amended to read:

36 **63A-5-101. Creation.**

37 (1) [~~(a)~~] There is created [~~a~~] within the department the State Building Board [~~composed~~
38 ~~of eight members, seven of whom shall be appointed by the governor for terms of four years~~].

39 [~~(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the~~
40 ~~time of appointment or reappointment, adjust the length of terms to ensure that the terms of~~
41 ~~board members are staggered so that approximately half of the board is appointed every two~~
42 ~~years.~~]

43 [~~(2) When a vacancy occurs in the membership for any reason, the replacement shall be~~
44 ~~appointed for the unexpired term.~~]

45 [~~(3) The executive director of the Governor's Office of Management and Budget or the~~
46 ~~executive director's designee is a nonvoting member of the board.~~]

47 [~~(4) Each member shall hold office until a successor is appointed and qualified, but no~~
48 ~~member shall serve more than two consecutive terms.~~]

49 [~~(5) One member shall be designated by the governor as chair.~~]

50 [~~(6) A member may not receive compensation or benefits for the member's service, but~~
51 ~~may receive per diem and travel expenses in accordance with.~~]

52 [~~(a) Section [63A-3-106](#);~~]

53 [~~(b) Section [63A-3-107](#); and~~]

54 [~~(c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and~~
55 ~~[63A-3-107](#).~~]

56 [~~(7) The members of the board are not required to give bond for the performance of~~
57 ~~their official duties.~~]

58 [~~(8) The department shall provide administrative and staff services to enable the board~~

59 ~~to exercise its powers and discharge its duties, and shall provide necessary space and~~
60 ~~equipment for the board.]~~

61 (2) (a) The executive director shall appoint a director of the board with the approval of
62 the governor.

63 (b) The director appointed under Subsection (2)(a) is equivalent to a division director
64 described in Section [63A-1-109](#).

65 Section 3. Section **63A-5-101.5** is enacted to read:

66 **63A-5-101.5. State Building Board composition -- Appointment -- Per diem and**
67 **expenses -- Administrative services.**

68 (1) (a) The board is composed of eight members, seven of whom are voting members
69 who the governor appoints for terms of four years.

70 (b) The executive director of the Governor's Office of Management and Budget or the
71 executive director's designee is a nonvoting member of the board.

72 (2) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
73 time of a member's appointment or reappointment, adjust the length of the member's term to
74 ensure that approximately half of the board is appointed every two years.

75 (3) When a vacancy occurs in the membership of the board for any reason, the
76 governor shall appoint a replacement for the unexpired term of the member who created the
77 vacancy.

78 (4) Each board member shall hold office until the governor appoints and qualifies a
79 successor, but no member may serve more than two consecutive terms.

80 (5) The governor shall designate one member as the chair of the board.

81 (6) A member of the board may not receive compensation or benefits for the member's
82 service on the board, but may receive per diem and travel expenses in accordance with:

83 (a) Section [63A-3-106](#);

84 (b) Section [63A-3-107](#); and

85 (c) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
86 [63A-3-107](#).

87 (7) A member of the board is not required to post a bond for the performance of the
88 member's official duties.

89 (8) The department shall provide the board administrative and staff services and

90 necessary space and equipment.

91 Section 4. Section **63A-5-103** is amended to read:

92 **63A-5-103. Board -- Powers -- Rulemaking authority.**

93 (1) The State Building Board shall:

94 (a) in cooperation with agencies, prepare a master plan of structures built or
95 contemplated;

96 (b) submit to the governor and the Legislature a comprehensive five-year building plan
97 for the state containing the information required by Subsection (2);

98 (c) amend and keep current the five-year building program that complies with the
99 requirements described in Subsection (6), for submission to the governor and subsequent
100 legislatures; and

101 (d) as a part of the long-range plan, recommend to the governor and Legislature any
102 changes in the law that are necessary to ensure an effective, well-coordinated building program
103 for all agencies[;].

104 [~~(e)~~] (2) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
105 Rulemaking Act, make rules:

106 [~~(i)~~] (a) that are necessary to discharge its duties and the duties of the Division of
107 Facilities Construction and Management;

108 [~~(ii) to~~] (b) that establish standards and requirements for life cycle cost-effectiveness
109 of state facility projects;

110 [~~(iii) to~~] (c) that govern the disposition of real property by the division and establish
111 factors, including appraised value and historical significance, in evaluating the disposition;

112 [~~(iv) to~~] (d) that establish standards and requirements for a capital development project
113 request and feasibility study described in Subsection 63A-5-104(2)(b), including [a
114 requirement for a feasibility study; and];

115 [~~(v) for operations and maintenance expenditures for state-owned facilities that require,~~
116 ~~and establish standards for:]~~

117 [(A) reporting;]

118 [(B) utility metering;]

119 [(C) creating operations and maintenance programs within all agency institutional line
120 items;]

121 ~~[(D)] reviewing and adjusting for inflationary costs of goods and services on an annual~~
 122 ~~basis; and]~~

123 (i) a deadline by which a state agency is required to submit a capital development
 124 project request; and

125 (ii) conditions and requirements by which a state agency may modify the state agency's
 126 capital development project request after the agency submits the request;

127 (e) for the monitoring of a state agency's operations and maintenance expenditures for a
 128 state-owned facility, that:

129 (i) establish standards and requirements for utility metering;

130 (ii) create an operations and maintenance program for a state agency's facilities;

131 (iii) establish a methodology for determining reasonably anticipated inflationary costs
 132 for each operation and maintenance program described in Subsection (2)(e)(ii);

133 (iv) require an agency to report the amount the agency receives and expends on
 134 operations and maintenance; and

135 ~~[(E)] (f) for determining the actual cost for operations and management requests for a~~
 136 ~~new facility[;].~~

137 (3) The board shall:

138 ~~[(F)] (a)~~ (a) with support from the Division of Facilities Construction and Management,
 139 establish design criteria, standards, and procedures for planning, design, and construction of
 140 new state facilities and for improvements to existing state facilities, including life-cycle
 141 costing, cost-effectiveness studies, and other methods and procedures that address:

142 (i) the need for the building or facility;

143 (ii) the effectiveness of its design;

144 (iii) the efficiency of energy use; and

145 (iv) the usefulness of the building or facility over its lifetime;

146 ~~[(G)] (b)~~ (b) prepare and submit a yearly request to the governor and the Legislature for a
 147 designated amount of square footage by type of space to be leased by the Division of Facilities
 148 Construction and Management in that fiscal year;

149 ~~[(H)] (c)~~ (c) assure the efficient use of all building space; and

150 ~~[(I)] (d)~~ (d) conduct ongoing facilities maintenance audits for state-owned facilities.

151 ~~[(Z)] (4) (a)~~ (4) (a) An agency shall comply with ~~[the rules described in]~~ [the rules described in] a rule made under

152 Subsection [~~(1)(e)(v)(E)~~] (2)(f) for new facility requests submitted to the Legislature for the
153 2017 General Session or any session of the Legislature after the 2017 General Session.

154 (b) On or before September 1, 2016, each agency shall revise the agency's budget to
155 comply with the rules described in Subsection [~~(1)(e)(v)(C)~~] (2)(e)(ii).

156 (c) Beginning on December 1, 2016, the Office of the Legislative Fiscal Analyst and
157 the Governor's Office of Management and Budget shall, for each agency with operating and
158 maintenance expenses, ensure that each required budget for that agency is adjusted in
159 accordance with the rules described in Subsection [~~(1)(e)(v)(D)~~] (2)(e)(iii).

160 [~~(3)~~] (5) In order to provide adequate information upon which the State Building Board
161 may make a recommendation described in Subsection (1), any state agency requesting new
162 full-time employees for the next fiscal year shall report those anticipated requests to the
163 building board at least 90 days before the annual general session in which the request is made.

164 [~~(4)~~] (6) (a) The State Building Board shall ensure that the five-year building plan
165 required by Subsection (1)(c) includes:

- 166 (i) a list that prioritizes construction of new buildings for all structures built or
167 contemplated based upon each agency's present and future needs;
- 168 (ii) information, and space use data for all state-owned and leased facilities;
- 169 (iii) substantiating data to support the adequacy of any projected plans;
- 170 (iv) a summary of all statewide contingency reserve and project reserve balances as of
171 the end of the most recent fiscal year;
- 172 (v) a list of buildings that have completed a comprehensive facility evaluation by an
173 architect/engineer or are scheduled to have an evaluation;
- 174 (vi) for those buildings that have completed the evaluation, the estimated costs of
175 needed improvements; and
- 176 (vii) for projects recommended in the first two years of the five-year building plan:
 - 177 (A) detailed estimates of the cost of each project;
 - 178 (B) the estimated cost to operate and maintain the building or facility on an annual
179 basis;
 - 180 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of
181 the replacement cost of the building or facility, on an annual basis;
 - 182 (D) the estimated number of new agency full-time employees expected to be housed in

183 the building or facility;

184 (E) the estimated cost of new or expanded programs and personnel expected to be
185 housed in the building or facility;

186 (F) the estimated lifespan of the building with associated costs for major component
187 replacement over the life of the building; and

188 (G) the estimated cost of any required support facilities.

189 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
190 State Building Board may make rules prescribing the format for submitting the information
191 required by this Subsection [~~(4)~~] (6).

192 [~~(5)~~] (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
193 Act, the State Building Board may make rules establishing circumstances under which bids
194 may be modified when all bids for a construction project exceed available funds as certified by
195 the director.

196 (b) In making [~~those~~] the rules described in Subsection (7)(a), the State Building Board
197 shall provide for the fair and equitable treatment of bidders.

198 [~~(6)~~] (8) (a) A person who violates a rule [~~adopted by the board~~] that the board makes
199 under Subsection [~~(1)(c)~~] (2) is subject to a civil penalty not to exceed \$2,500 for each
200 violation plus the amount of any actual damages, expenses, and costs related to the violation of
201 the rule that are incurred by the state.

202 (b) The board may take any other action allowed by law.

203 (c) If any violation of a rule [~~adopted by the board~~] that the board makes is also an
204 offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty,
205 damages, expenses, and costs allowed under Subsection [~~(1)(c)~~] (2) in addition to any criminal
206 prosecution.

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

208 **63A-5-104. Definitions -- Capital development and capital improvement process**
209 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

210 (1) As used in this section:

211 (a) (i) "Capital developments" means a:

212 (A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

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

214 (C) purchase of real property where an appropriation is requested to fund the purchase.
215 (ii) "Capital developments" does not include a project described in Subsection
216 (1)(b)(iii).
217 (b) "Capital improvements" means:
218 (i) a remodeling, alteration, replacement, or repair project with a total cost of less than
219 \$3,500,000;
220 (ii) a site or utility improvement with a total cost of less than \$3,500,000;
221 (iii) a utility infrastructure improvement project that:
222 (A) has a total cost of less than \$7,000,000;
223 (B) consists of two or more projects that, if done separately, would each cost less than
224 \$3,500,000; and
225 (C) the State Building Board determines is more cost effective or feasible to be
226 completed as a single project; or
227 (iv) a new facility with a total construction cost of less than \$500,000.
228 (c) (i) "New facility" means the construction of a new building on state property
229 regardless of funding source.
230 (ii) "New facility" includes:
231 (A) an addition to an existing building; and
232 (B) the enclosure of space that was not previously fully enclosed.
233 (iii) "New facility" does not include:
234 (A) the replacement of state-owned space that is demolished or that is otherwise
235 removed from state use, if the total construction cost of the replacement space is less than
236 \$3,500,000; or
237 (B) the construction of facilities that do not fully enclose a space.
238 (d) "Replacement cost of existing state facilities and infrastructure" means the
239 replacement cost, as determined by the Division of Risk Management, of state facilities,
240 excluding auxiliary facilities as defined by the State Building Board and the replacement cost
241 of infrastructure as defined by the State Building Board.
242 (e) "State funds" means public money appropriated by the Legislature.
243 (2) (a) The [~~State Building Board~~] board shall, on behalf of all state agencies[~~, shall~~
244 ~~submit its~~] and in accordance with Subsection (4), submit capital development

245 recommendations and priorities to the Legislature for approval and prioritization.

246 (b) In developing the [~~State Building Board's~~] board's capital development
247 recommendations and priorities, the [~~State Building Board~~] board shall~~[(i)]~~ require each state
248 agency [~~requesting~~] that requests an appropriation for a capital development project to:

249 (i) submit to the board a capital development project request; and

250 (ii) complete and submit to the board a study that demonstrates the feasibility of the
251 capital development project, including:

252 (A) the need for the capital development project;

253 (B) the appropriateness of the scope of the capital development project;

254 (C) any private funding for the capital development project; and

255 (D) the economic and community impacts of the capital development project~~[:]~~.

256 ~~[(ii)]~~ (c) The board shall verify the completion and accuracy of [~~the~~] a feasibility study
257 [~~described in~~] that a state agency submits to the board under Subsection (2)(b)~~[(i)]~~;

258 ~~[(iii)]~~ (d) The board shall require that an institution of higher education described in
259 Section [53B-1-102](#) that submits a request for a capital development project address whether
260 and how, as a result of the project, the institution will:

261 ~~[(A)]~~ (i) offer courses or other resources that will help meet demand for jobs, training,
262 and employment in the current market and the projected market for the next five years;

263 ~~[(B)]~~ (ii) respond to individual skilled and technical job demand over the next 3, 5, and
264 10 years;

265 ~~[(C)]~~ (iii) respond to industry demands for trained workers;

266 ~~[(D)]~~ (iv) help meet commitments made by the Governor's Office of Economic
267 Development, including relating to training and incentives;

268 ~~[(E)]~~ (v) respond to changing needs in the economy; and

269 ~~[(F)]~~ (vi) based on demographics, respond to demands for online or in-class
270 instruction~~[:and]~~;

271 ~~[(iv) only when determining the order of prioritization among requests submitted by~~
272 ~~the State Board of Regents;]~~

273 (e) The board shall give more weight~~[:]~~ in the [~~State Building Board's~~] board's scoring
274 process~~[:]~~ to a request that is designated as a higher priority by the State Board of Regents than
275 a request that is designated as a lower priority by the State Board of Regents only when

276 determining the order of prioritization among requests submitted by the State Board of
277 Regents.

278 ~~[(c) An agency may not modify a capital development project request after the deadline~~
279 ~~for submitting the request, except to the extent that a modification of the scope of the project,~~
280 ~~or the amount of funds requested, is necessary due to increased construction costs or other~~
281 ~~factors outside of the agency's control.]~~

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

284 (b) Legislative approval is not required for a capital development project that consists
285 of the design or construction of a new facility if:

286 (i) the ~~[State Building Board]~~ board determines that the requesting state agency has
287 provided adequate assurance that state funds will not be used for the design or construction of
288 the facility;

289 (ii) the state agency provides to the ~~[State Building Board]~~ board a written document,
290 signed by the head of the state agency:

291 (A) stating that funding or a revenue stream is in place, or will be in place before the
292 project is completed, to ensure that increased state funding will not be required to cover the
293 cost of operations and maintenance to the resulting facility for immediate or future capital
294 improvements; and

295 (B) detailing the source of the funding that will be used for the cost of operations and
296 maintenance for immediate and future capital improvements to the resulting facility; and

297 (iii) the ~~[State Building Board]~~ board determines that the use of the state property is:

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

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

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

302 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state
303 agency may not request:

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

305 (B) state capital improvement funding.

306 (d) Legislative approval is not required for:

307 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds
 308 that has been approved by the ~~[State Building Board]~~ board;

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

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

314 (iv) a capital project that:

315 (A) is funded by~~[-(F)]~~ the Uintah Basin Revitalization Fund~~[-];~~ or ~~[(H)]~~ the Navajo
 316 Revitalization Fund; and

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

318 (v) a capital project on school and institutional trust lands that is funded by the School
 319 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
 320 does not fund construction of a new facility for a state agency or higher education institution.

321 (e) (i) Legislative approval is not required for capital development projects to be built
 322 for the Department of Transportation:

323 (A) as a result of an exchange of real property under Section 72-5-111; or

324 (B) as a result of a sale or exchange of real property from a maintenance facility if the
 325 real property is exchanged for, or the proceeds from the sale of the real property are used for,
 326 another maintenance facility, including improvements for a maintenance facility and real
 327 property.

328 (ii) When the Department of Transportation approves a sale or exchange under
 329 Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the
 330 cochairs of the Infrastructure and General Government Appropriations Subcommittee of the
 331 Legislature's Joint Appropriation Committee about any new facilities to be built or improved
 332 under this exemption.

333 (4) (a) (i) ~~[The State Building Board]~~ On or before January 15 of each year, the board
 334 shall, on behalf of all state agencies, ~~[commissions, departments, and institutions shall by~~
 335 ~~January 15 of each year;]~~ submit a list of anticipated capital improvement requirements to the
 336 Legislature for review and approval.

337 (ii) The ~~[list shall identify]~~ board shall ensure that the list identifies:

- 338 (A) a single project that costs more than \$1,000,000;
- 339 (B) multiple projects within a single building or facility that collectively cost more than
340 \$1,000,000;
- 341 (C) a single project that will be constructed over multiple years with a yearly cost of
342 \$1,000,000 or more and an aggregate cost of more than \$3,500,000;
- 343 (D) multiple projects within a single building or facility with a yearly cost of
344 \$1,000,000 or more and an aggregate cost of more than \$3,500,000;
- 345 (E) a single project previously reported to the Legislature as a capital improvement
346 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost
347 more than \$1,000,000;
- 348 (F) multiple projects within a single building or facility previously reported to the
349 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
350 costs or scope of work, will now cost more than \$1,000,000; and
- 351 (G) projects approved under Subsection (1)(b)(iii).
- 352 (b) Unless otherwise directed by the Legislature, the [~~State Building Board~~] board shall
353 prioritize capital improvements from the list submitted to the Legislature up to the level of
354 appropriation made by the Legislature.
- 355 (c) In prioritizing capital improvements, the [~~State Building Board~~] board shall
356 consider the results of facility evaluations completed by an architect/engineer as stipulated by
357 the building board's facilities maintenance standards.
- 358 (d) [~~Beginning on July 1, 2013, in~~] In prioritizing capital improvements, the [~~State~~
359 ~~Building Board~~] board shall allocate at least 80% of the funds that the Legislature appropriates
360 for capital improvements to:
 - 361 (i) projects that address:
 - 362 (A) a structural issue;
 - 363 (B) fire safety;
 - 364 (C) a code violation; or
 - 365 (D) any issue that impacts health and safety;
 - 366 (ii) projects that upgrade:
 - 367 (A) an HVAC system;
 - 368 (B) an electrical system;

- 369 (C) essential equipment;
- 370 (D) an essential building component; or
- 371 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,
- 372 parking lot, or road; or
- 373 (iii) projects that demolish and replace an existing building that is in extensive
- 374 disrepair and cannot be fixed by repair or maintenance.
- 375 (e) ~~[Beginning on July 1, 2013, in]~~ In prioritizing capital improvements, the ~~[State~~
- 376 ~~Building Board]~~ board shall allocate no more than 20% of the funds that the Legislature
- 377 appropriates for capital improvements to:
- 378 (i) remodeling and aesthetic upgrades to meet state programmatic needs; or
- 379 (ii) construct an addition to an existing building or facility.
- 380 (f) The ~~[State Building Board]~~ board may require an entity that benefits from a capital
- 381 improvement project to repay the capital improvement funds from savings that result from the
- 382 project.
- 383 (g) The ~~[State Building Board]~~ board may provide capital improvement funding to a
- 384 single project, or to multiple projects within a single building or facility, even if the total cost
- 385 of the project or multiple projects is \$3,500,000 or more, if:
- 386 (i) the capital improvement project is a project described in Subsection (1)(b)(iii); and
- 387 (ii) the Legislature has not refused to fund the project with capital improvement funds.
- 388 (h) In prioritizing and allocating capital improvement funding, the State Building
- 389 Board shall comply with the requirement in Subsection [63B-23-101\(2\)\(f\)](#).
- 390 (5) The Legislature may authorize:
- 391 (a) the total square feet to be occupied by each state agency; and
- 392 (b) the total square feet and total cost of lease space for each agency.
- 393 (6) If construction of a new building or facility will require an immediate or future
- 394 increase in state funding for operations and maintenance or for capital improvements, the
- 395 Legislature may not authorize the new building or facility until the Legislature appropriates
- 396 funds for:
- 397 (a) the portion of operations and maintenance, if any, that will require an immediate or
- 398 future increase in state funding; and
- 399 (b) the portion of capital improvements, if any, that will require an immediate or future

400 increase in state funding.

401 (7) (a) Except as provided in Subsection (7)(b), the Legislature may not fund the design
402 or construction of any new capital development projects, except to complete the funding of
403 projects for which partial funding has been previously provided, until the Legislature has
404 appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to
405 capital improvements.

406 [~~(b) (i) As used in this Subsection (7)(b):~~]

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

408 [~~(B) "General Fund budget deficit" is as defined in Section 63J-1-312.~~]

409 [(ii)] (b) If the Legislature determines that there exists an Education Fund budget
410 deficit or a General Fund budget deficit [~~exists~~] as those terms are defined in Section
411 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to
412 capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

413 [~~(8) It is the policy of the Legislature that a new building or facility be approved and~~
414 ~~funded for construction in a single budget action, therefore the]~~

415 (8) (a) The Legislature may not fund the [~~programming;~~] design[;] and construction of
416 a new ~~Ĥ→ [building or] ←Ĥ~~ facility in phases over more than one year unless the Legislature
416a ~~Ĥ→ [has~~
417 ~~approved each phase of the funding for the construction of the new building or facility by] ←Ĥ~~ [the
418 affirmative] ~~Ĥ→ approves the funding for both the design and construction by ←Ĥ~~ a vote of
418a two-thirds of all the members elected to each house.

419 ~~Ĥ→ [(b) This Subsection (8) does not apply to an appropriation to fund a new building or~~
420 ~~facility's programming.]~~

420a (b) An agency is required to receive approval from the board before the agency begins
420b programming for a new facility that requires legislative approval under Subsection (3).

420c (c) The board or an agency may fund the programming of a new facility before the
420d Legislature makes an appropriation for the new facility under Subsection (8)(a). ←Ĥ

421 (9) (a) [~~If, after approval of]~~ Notwithstanding the requirements of Title 63J, Chapter 1,
422 Budgetary Procedures Act, after the Legislatures approves capital development and capital
423 improvement priorities [by the Legislature] under this section, [emergencies arise that create
424 unforeseen critical capital improvement projects, the State Building Board may;
425 notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act,] if an
426 emergency arises that creates an unforeseen and critical need for a capital improvement project,
427 the board may reallocate capital improvement funds to address [those projects] the project.

428 (b) The [~~State Building Board~~] board shall report any changes [~~it~~] the board makes in
429 capital improvement allocations approved by the Legislature to:

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

431 (ii) the Legislature at its next annual general session.
432 (10) (a) The [~~State Building Board~~] board may adopt a rule allocating to institutions
433 and agencies their proportionate share of capital improvement funding.
434 (b) The [~~State Building Board~~] board shall ensure that the rule:
435 (i) reserves funds for the Division of Facilities Construction and Management for
436 emergency projects; and
437 (ii) allows the delegation of projects to some institutions and agencies with the
438 requirement that a report of expenditures will be filed annually with the Division of Facilities
439 Construction and Management and appropriate governing bodies.
440 (11) It is the intent of the Legislature that in funding capital improvement requirements
441 under this section the General Fund be considered as a funding source for at least half of those
442 costs.
443 (12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for
444 capital improvements shall be used for maintenance or repair of the existing building or
445 facility.
446 (b) The [~~State Building Board~~] board may modify the requirement described in
447 Subsection (12)(a) if the [~~State Building Board~~] board determines that a different allocation of
448 capital improvements funds is in the best interest of the state.

Legislative Review Note
Office of Legislative Research and General Counsel