

CHAPTER 317

EDUCATION - POSTSECONDARY

HOUSE BILL 16-1459

BY REPRESENTATIVE(S) Becker K. and Brown, Vigil, Esgar, Carver, Fields, Garnett, Kagan, Lontine, Melton, Pabon, Priola, Rosenthal, Hullinghorst;
also SENATOR(S) Sonnenberg and Kefalas, Baumgardner, Crowder, Heath, Kerr, Lundberg, Martinez Humenik, Merrifield, Newell, Scheffel, Tate, Todd.

AN ACT

CONCERNING AN INCREASE IN THE DOLLAR THRESHOLD FOR THE REVIEW OF CAPITAL CONSTRUCTION OR CAPITAL RENEWAL PROJECTS THAT ARE NOT FOR NEW CONSTRUCTION OR NEW ACQUISITIONS OF REAL PROPERTY FOR AUXILIARY AND ACADEMIC FACILITIES TO BE FUNDED SOLELY FROM CASH FUNDS HELD BY AN INSTITUTION OF HIGHER EDUCATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 23-1-106, **amend** (5) (b), (6) (b), (7) (c) (I), (9) (d) (II), and (11) (a) (III); and **add** (10.3) (e.5) as follows:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning - legislative declaration - definitions.

(5) (b) The commission may except from the requirements for program and physical planning any project that requires ~~less than~~ two million dollars ~~of state moneys~~ OR LESS IF THE CAPITAL CONSTRUCTION PROJECT IS FOR NEW CONSTRUCTION AND FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION OR THE PROJECT IS FUNDED THROUGH THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139, OR TEN MILLION DOLLARS OR LESS IF THE PROJECT IS NOT FOR NEW CONSTRUCTION AND IS FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION.

(6) (b) The commission shall request annually from the governing board of each state institution of higher education a two-year projection of capital construction projects to be undertaken pursuant to subsection (9) or (10) of this section and estimated to require total project expenditures exceeding two million dollars IF THE CAPITAL CONSTRUCTION PROJECT IS FOR NEW ACQUISITIONS OF REAL PROPERTY OR NEW CONSTRUCTION AND FUNDED SOLELY FROM CASH FUNDS HELD BY THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

INSTITUTION OR THE PROJECT IS FUNDED THROUGH THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139, OR EXCEEDING TEN MILLION DOLLARS IF THE PROJECT IS NOT FOR NEW ACQUISITIONS OF REAL PROPERTY OR NEW CONSTRUCTION AND IS FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION. The projection must include the estimated cost, the method of funding, and a schedule for project completion for each project. A state institution of higher education shall amend the projection prior to commencing a project that is not included in the institution's most recent projection.

(7) (c) (I) (A) The commission annually shall prepare a unified, two-year report for capital construction or capital renewal projects described in subsection (9) ~~or (10)~~ of this section, THAT ARE NOT FOR NEW ACQUISITIONS OF REAL PROPERTY OR NEW CONSTRUCTION, and ARE estimated to require total project expenditures exceeding ~~two~~ TEN million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, the capital development committee, and the joint budget committee, consistent with the executive budget timetable.

(B) THE COMMISSION ANNUALLY SHALL PREPARE A UNIFIED, TWO-YEAR REPORT FOR CAPITAL CONSTRUCTION PROJECTS FOR NEW ACQUISITIONS OF REAL PROPERTY OR FOR NEW CONSTRUCTION, DESCRIBED IN SUBSECTION (10) OF THIS SECTION, ESTIMATED TO REQUIRE TOTAL PROJECT EXPENDITURES EXCEEDING TWO MILLION DOLLARS, COORDINATED WITH EDUCATION PLANS. THE COMMISSION SHALL TRANSMIT THE REPORT TO THE OFFICE OF STATE PLANNING AND BUDGETING, THE GOVERNOR, THE CAPITAL DEVELOPMENT COMMITTEE, AND THE JOINT BUDGET COMMITTEE, CONSISTENT WITH THE EXECUTIVE BUDGET TIMETABLE.

(9) (d) (II) ~~Any~~ A plan for ~~any such~~ A capital construction or capital renewal project ~~that~~ IS NOT SUBJECT TO REVIEW OR APPROVAL BY THE COMMISSION IF SUCH PROJECT IS:

(A) Estimated to require total expenditures of two million dollars or less ~~is not subject to review or approval by the commission~~ IF THE CAPITAL CONSTRUCTION PROJECT IS FOR NEW ACQUISITIONS OF REAL PROPERTY OR FOR NEW CONSTRUCTION AND FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION OR THE PROJECT IS FUNDED THROUGH THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139; OR

(B) ESTIMATED TO REQUIRE TOTAL EXPENDITURES OF TEN MILLION DOLLARS OR LESS IF THE PROJECT IS NOT FOR NEW ACQUISITIONS OF REAL PROPERTY OR FOR NEW CONSTRUCTION AND IS FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION.

(10.3) As used in this section, unless the context otherwise requires:

(e.5) "REAL PROPERTY" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-30-1301 (15), C.R.S.

(11)(a) Each state institution of higher education shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that:

(III) Was estimated to require total expenditures of two million dollars or less IF THE CAPITAL CONSTRUCTION PROJECT IS FOR NEW ACQUISITIONS OF REAL PROPERTY OR FOR NEW CONSTRUCTION AND WAS FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION OR THE PROJECT WAS FUNDED THROUGH THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139, OR WAS ESTIMATED TO REQUIRE TOTAL EXPENDITURES OF TEN MILLION DOLLARS OR LESS IF THE PROJECT WAS NOT FOR NEW ACQUISITIONS OF REAL PROPERTY OR FOR NEW CONSTRUCTION AND WAS FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION; or

SECTION 2. In Colorado Revised Statutes, 23-5-103, **amend** (3) as follows:

23-5-103. Pledge of income. (3) If the pledged net income, fees, and revenues exceed the amount required to meet principal, interest, and reserve requirements in connection with revenue bonds of the institution to which such income has been pledged and exceed the amount necessary for the maintenance and operation of the auxiliary facility plus any amount set aside in a reserve fund for repair and replacement of the facility, the governing board may retain such surplus and utilize the same in such manner as in its judgment is for the best interests of the educational institution; except that, if the governing board uses the surplus moneys on a project ~~requiring total project expenditures that exceed two million dollars~~ EXPECTED TO BE PAID FROM CASH FUNDS OR OTHER NONSTATE MONEYS, the project shall be subject to the provisions of section 23-1-106. Use of such surplus shall be reviewed in advance by representatives of the student government at the institution with which the auxiliary facility is associated.

SECTION 3. In Colorado Revised Statutes, 24-75-303, **amend** (3) as follows:

24-75-303. Appropriation for capital construction. (3) A capital construction project for a state institution of higher education that is ~~estimated to require total expenditures exceeding two million dollars~~ EXPECTED TO BE paid from cash funds or other nonstate moneys held by the institution must be commenced pursuant to section 23-1-106, C.R.S.

SECTION 4. Applicability. This act applies to the Colorado commission of higher education's submission of two-year reports for capital construction or capital renewal projects on or after the effective date of this act.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 10, 2016