

CHAPTER 118

GOVERNMENT - STATE

SENATE BILL 12-040

BY SENATOR(S) Bacon, Harvey, Renfroe, Schwartz, Boyd, Heath, Newell, Williams S.;
also REPRESENTATIVE(S) Vigil, Brown, Sonnenberg, Fields, Fischer, Hamner, Labuda, Pabon, Pace, Schafer S., Todd.

AN ACT**CONCERNING THE QUALIFICATION OF CERTAIN STATE HIGHER EDUCATION FACILITIES FOR STATE
CONTROLLED MAINTENANCE FUNDING.**

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

SECTION 1. In Colorado Revised Statutes, 23-1-102, **amend** (2) as follows:

23-1-102. Commission established - terms of office. (2) There is hereby established a central policy and coordinating board for higher education in the state of Colorado, to be known as the Colorado commission on higher education, referred to in this article as the "commission". The duties and powers delegated to the commission by this article shall apply to all state-supported institutions of higher education, including, but not limited to, all postsecondary institutions in the state supported in whole or part by state funds, and including junior colleges and community colleges, extension programs of the state-supported universities and colleges, local district colleges, ~~and~~ area vocational schools, THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF THIS TITLE, and specifically the regents of the university of Colorado and the institutions it governs. The governing boards and institutions of the public system of higher education in Colorado, including the university of Colorado, are obligated to conform to the policies set by the commission within the authorities delegated to it in this article.

SECTION 2. In Colorado Revised Statutes, 23-1-106, **amend** (9) (a), (9) (b), (10) (a) (I), and (10) (a) (II); and **add** (10.2) and (10.3) as follows:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning - legislative declaration - definitions. (9) (a) Except as provided in paragraph (d) of this subsection (9), a capital construction or acquisition project FOR AN AUXILIARY FACILITY initiated 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.

governing board of a state-supported institution of higher education that is contained in the most recent unified, two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed and operated and maintained solely from cash funds held by the institution shall not be subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee.

(b) Except as provided in paragraph (d) of this subsection (9), a capital construction or acquisition project for an academic ~~building~~ FACILITY initiated by the governing board of a state-supported institution of higher education that is contained in the most recent unified, two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed solely from cash funds held by the institution and operated and maintained from such funds or from state moneys appropriated for such purpose, or both, shall not be subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee. Any capital construction project subject to this paragraph (b) shall comply with the high performance standard certification program established pursuant to section 24-30-1305, C.R.S.

(10) (a) (I) The commission shall review and approve any plan for a capital construction or acquisition project FOR AN AUXILIARY FACILITY that is estimated to require total expenditures exceeding two million dollars and that is to be acquired or constructed and operated and maintained solely from cash funds held by the institution that, in whole or in part, are subject to the higher education revenue bond intercept program established pursuant to section 23-5-139.

(II) The commission shall review and approve any plan for a capital construction or acquisition project for an academic ~~building~~ FACILITY that is estimated to require total expenditures exceeding two million dollars, that is to be acquired or constructed solely from cash funds held by the institution that, in whole or in part, are subject to the higher education revenue bond intercept program established pursuant to section 23-5-139, and that is operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both. Any capital construction project subject to this subparagraph (II) shall comply with the high performance standard certification program established pursuant to section 24-30-1305, C.R.S.

(10.2) (a) (I) NOTWITHSTANDING ANY LAW TO THE CONTRARY, ALL ACADEMIC FACILITIES ACQUIRED OR CONSTRUCTED, OR AN AUXILIARY FACILITY REPURPOSED FOR USE AS AN ACADEMIC FACILITY, SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION AND OPERATED AND MAINTAINED FROM SUCH CASH FUNDS OR FROM STATE MONEYS APPROPRIATED FOR SUCH PURPOSE, OR BOTH, INCLUDING, BUT NOT LIMITED TO, THOSE FACILITIES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (9) OF THIS SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (10) OF THIS SECTION, THAT DID NOT PREVIOUSLY QUALIFY FOR STATE CONTROLLED MAINTENANCE FUNDING WILL QUALIFY FOR STATE CONTROLLED MAINTENANCE FUNDING, SUBJECT TO FUNDING APPROVAL BY THE CAPITAL DEVELOPMENT

COMMITTEE AND THE ELIGIBILITY GUIDELINES DESCRIBED IN SECTION 24-30-1303.9, C.R.S., AS ENACTED BY HOUSE BILL 12-1318, ENACTED IN 2012.

(II) FOR PURPOSES OF THIS PARAGRAPH (a), THE ELIGIBILITY FOR STATE CONTROLLED MAINTENANCE FUNDING COMMENCES ON THE DATE OF THE ACCEPTANCE OF THE CONSTRUCTION OR REPURPOSING OF THE FACILITY OR THE CLOSING DATE OF ANY ACQUISITION. THE DATE OF THE ACCEPTANCE OF CONSTRUCTION OR REPURPOSING SHALL BE DETERMINED BY THE OFFICE OF THE STATE ARCHITECT.

(b) (I) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE CLASSIFICATION OF FACILITIES AS ACADEMIC FACILITIES OR AUXILIARY FACILITIES CAN BE DIFFICULT, AND SUCH CLASSIFICATIONS OFTEN CHANGE AS ACADEMIC NEEDS, STUDENT NEEDS, AND NEW CONSTRUCTION AND DESIGN PRACTICES EMERGE. THEREFORE, THE OFFICE OF THE STATE ARCHITECT, IN COLLABORATION WITH THE DEPARTMENT OF HIGHER EDUCATION AND THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL DEVELOP GUIDELINES IN ORDER TO ASSIST SUCH CLASSIFICATION. THE GUIDELINES SHALL BE ANNUALLY REVIEWED AND APPROVED BY THE CAPITAL DEVELOPMENT COMMITTEE. THE GUIDELINES SHALL ADDRESS THE FOLLOWING TWO FACTORS THAT HAVE HISTORICALLY BEEN CONSIDERED WHEN CLASSIFYING ACADEMIC FACILITIES AND AUXILIARY FACILITIES:

(A) THE FUNDING SOURCE FOR THE FACILITY; AND

(B) THE NATURE AND USE OF THE FACILITY.

(II) THE GUIDELINES ESTABLISHED PURSUANT TO THIS PARAGRAPH (b) SHALL USE THE DEFINITIONS SET FORTH IN SUBSECTION (10.3) OF THIS SECTION.

(10.3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACADEMIC FACILITY" MEANS ANY BUILDING OR OTHER PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY INFRASTRUCTURE, THAT IS CENTRAL TO THE ROLE AND MISSION OF EACH INSTITUTION AS SET FORTH IN THIS TITLE. EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO, CLASSROOMS, LIBRARIES, AND ADMINISTRATIVE BUILDINGS.

(b) "AUXILIARY FACILITY" MEANS ANY BUILDING OR OTHER PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY INFRASTRUCTURE, FUNDED FROM AN AUXILIARY SOURCE SUCH AS HOUSING OR PARKING REVENUE OR ANY BUILDING OR OTHER PHYSICAL FACILITY THAT HAS BEEN HISTORICALLY MANAGED AS AN AUXILIARY FACILITY AND IS ACCOUNTED FOR IN INSTITUTIONAL FINANCIAL STATEMENTS AS A SELF-SUPPORTING FACILITY. EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO, HOUSING FACILITIES, DINING FACILITIES, RECREATIONAL FACILITIES, AND STUDENT ACTIVITIES FACILITIES.

SECTION 3. In Colorado Revised Statutes, 24-30-1301, **amend** (7) as follows:

24-30-1301. Definitions. As used in this part 13, unless the context otherwise requires:

(7) "Facility" means any public building or facility of the state but does not include highways. "FACILITY" ALSO INCLUDES AN ACADEMIC OR AUXILIARY FACILITY THAT QUALIFIES FOR CONTROLLED MAINTENANCE AS SPECIFIED IN SECTION 23-1-106 (10.2), C.R.S.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 16, 2012