

CHAPTER 398

GOVERNMENT - STATE

SENATE BILL 13-214

BY SENATOR(S) Schwartz, Baumgardner, Giron, Aguilar, Kerr, Nicholson, Steadman, Todd;
 also REPRESENTATIVE(S) Fischer, Szabo, Vigil, Court, Fields, Gerou, Ginal, Hamner, Hullinghorst, Labuda, Lebsock,
 Mitsch Bush, Pabon, Pettersen, Priola, Rosenthal, Schafer, Young.

AN ACT

CONCERNING LEGISLATIVE OVERSIGHT OF THE FUNDING OF P-12 PUBLIC SCHOOL CAPITAL CONSTRUCTION PROJECTS THAT RECEIVE FUNDING UNDER THE "BUILDING EXCELLENT SCHOOLS TODAY ACT".

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

SECTION 1. In Colorado Revised Statutes, 22-43.7-103, **add** (6.5) as follows:

22-43.7-103. Definitions. As used in this article, unless the context otherwise requires:

(6.5) "CAPITAL DEVELOPMENT COMMITTEE" MEANS THE CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY ESTABLISHED IN SECTION 2-3-1302 (1), C.R.S.

SECTION 2. In Colorado Revised Statutes, 22-43.7-104, **add** (3.5) as follows:

22-43.7-104. Public school capital construction assistance fund - creation - crediting of moneys to fund - use of fund - emergency reserve - creation - reserve account - creation and use. (3.5) IN DETERMINING THE AMOUNT OF FINANCIAL ASSISTANCE THAT IT PROVIDES AND IN SO DOING MANAGING THE BALANCE OF THE ASSISTANCE FUND, THE BOARD SHALL ENSURE THAT, EFFECTIVE JUNE 30, 2013, AND EFFECTIVE EACH JUNE 30 THEREAFTER, THE BALANCE OF THE ASSISTANCE FUND IS AT LEAST EQUAL TO THE TOTAL AMOUNT OF PAYMENTS TO BE MADE BY THE STATE DURING THE NEXT FISCAL YEAR UNDER THE TERMS OF ANY LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2) LESS THE AMOUNT OF ANY SCHOOL DISTRICT MATCHING MONEYS AND ANY FEDERAL MONEYS TO BE RECEIVED FOR THE PURPOSE OF MAKING THE PAYMENTS.

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

SECTION 3. In Colorado Revised Statutes, 22-43.7-109, **amend** (1) introductory portion, (2) (a) (III), (7), and (9) introductory portion as follows:

22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements.

(1) For fiscal years commencing on or after July 1, 2008, the board, with the support of the division and subject to the ~~final~~ approval of the state board AND, IN THE CASE OF FINANCIAL ASSISTANCE THAT INVOLVES LEASE-PURCHASE AGREEMENTS, SUBJECT TO BOTH THE PRELIMINARY APPROVAL OF THE STATE BOARD AND THE FINAL APPROVAL OF THE CAPITAL DEVELOPMENT COMMITTEE, regarding financial assistance awards as specified in this section, shall provide financial assistance as specified in this section subject to the following limitations:

(2) (a) Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (2), the board shall establish an annual financial assistance timeline for use by applicants in applying for financial assistance and otherwise meeting financial assistance requirements and for use by the board in reviewing financial assistance applications and recommending financial assistance awards to the state board. The timeline shall specify:

(III) A deadline, NO LATER THAN JUNE 7, 2013, AND NO LATER THAN JUNE 1 OF EACH YEAR THEREAFTER, for the board to submit to the state board the prioritized list of projects for which the board recommends the provision of financial assistance as required by subsection (7) of this section; and

(7) (a) Pursuant to the timelines established pursuant to subsection (2) of this section for any fiscal year for which financial assistance is to be awarded, and after prioritizing public school facility capital construction projects as specified in subsection (5) of this section, the board shall submit to the state board a prioritized list of projects for which the board recommends the provision of financial assistance. The prioritized list ~~shall~~ MUST include the board's recommendation as to the amount and type of financial assistance to be provided and a statement of the source and amount of applicant matching moneys for each recommended project based upon information provided by the applicant. The board may recommend that any specific project only receive financial assistance if another higher priority project or group of projects becomes ineligible for financial assistance due to the inability of an applicant to raise required matching moneys by a deadline prescribed by the board as a condition of a financial assistance award for the higher priority project or group of projects. The state board SHALL REVIEW AND MAKE DECISIONS REGARDING THE PRIORITIZED LIST NO LATER THAN JUNE 20 OF EACH YEAR AND may approve, disapprove, or modify the provision of financial assistance for any project recommended by the board if the state board concludes that the board misinterpreted the results of the prioritization assessment conducted pursuant to section 22-43.7-108 or misapplied the prioritization criteria specified in subsection (5) of this section. The state board shall specifically explain in writing its reasons for finding that the board misinterpreted the results of the priority assessment or misapplied the prioritization criteria when disapproving or modifying any financial assistance award recommended by the board.

(b) NO LATER THAN JUNE 25 OF EACH YEAR, THE STATE BOARD SHALL SUBMIT TO

THE CAPITAL DEVELOPMENT COMMITTEE A REVISED PRIORITIZED LIST THAT INCLUDES ONLY THOSE PROJECTS FOR WHICH THE STATE BOARD IS RECOMMENDING AWARDS OF FINANCIAL ASSISTANCE THAT INVOLVE LEASE-PURCHASE AGREEMENTS. THE STATE BOARD SHALL SUBMIT WITH THE LIST THE INFORMATION REGARDING THE DETAILS OF THE FINANCING OF THE LISTED PROJECTS THAT THE BOARD SUBMITTED TO THE STATE BOARD AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (7). NO LATER THAN JULY 15 OF EACH YEAR, THE CAPITAL DEVELOPMENT COMMITTEE MAY APPROVE THE LIST OR MAY DISAPPROVE THE LIST IF THE COMMITTEE CONCLUDES THAT THE INCLUSION OF ONE OR MORE OF THE PROJECTS ON THE LIST WILL UNREASONABLY INCREASE THE COST OF PROVIDING FINANCIAL ASSISTANCE THAT INVOLVES LEASE-PURCHASE AGREEMENTS FOR ALL OF THE PROJECTS ON THE LIST. IF THE CAPITAL DEVELOPMENT COMMITTEE DOES NOT APPROVE OR DISAPPROVE THE LIST BY JULY 15, IT IS DEEMED TO HAVE APPROVED THE LIST AS SUBMITTED.

(c) IF THE CAPITAL DEVELOPMENT COMMITTEE DISAPPROVES THE REVISED PRIORITIZED LIST, IT SHALL PROVIDE ITS REASONS FOR DOING SO IN WRITING TO THE BOARD NO LATER THAN JULY 20. NO LATER THAN AUGUST 1, THE BOARD MAY RESUBMIT THE LIST WITH MODIFICATIONS OR ADDITIONAL INFORMATION, OR BOTH, THAT ADDRESS THE COMMITTEE'S CONCERNS. NO LATER THAN AUGUST 15, THE CAPITAL DEVELOPMENT COMMITTEE MAY APPROVE THE ENTIRE RESUBMITTED LIST OR MAY DISAPPROVE ONE OR MORE PROJECTS ON THE RESUBMITTED LIST IF THE COMMITTEE AGAIN CONCLUDES THAT THE INCLUSION OF THE PROJECT OR PROJECTS WILL UNREASONABLY INCREASE THE COST OF PROVIDING FINANCIAL ASSISTANCE THAT INVOLVES LEASE-PURCHASE AGREEMENTS FOR ALL OF THE PROJECTS ON THE LIST. IF THE CAPITAL DEVELOPMENT COMMITTEE DISAPPROVES A PROJECT ON THE RESUBMITTED LIST, THE PROJECT SHALL NOT RECEIVE FINANCIAL ASSISTANCE THAT INVOLVES LEASE-PURCHASE AGREEMENTS, AND THE REMAINING PROJECTS ON THE RESUBMITTED LIST SHALL RECEIVE SUCH FINANCIAL ASSISTANCE AS RECOMMENDED BY THE STATE BOARD. IF THE CAPITAL DEVELOPMENT COMMITTEE DOES NOT APPROVE OR DISAPPROVE THE RESUBMITTED LIST BY AUGUST 15, IT IS DEEMED TO HAVE APPROVED THE LIST AS RESUBMITTED.

(9) Except as otherwise provided in subsection (10) of this section, the board ~~shall~~ MAY recommend, and the state board ~~shall~~ MAY approve financial assistance THAT DOES NOT INVOLVE A LEASE-PURCHASE AGREEMENT for OR RECOMMEND TO THE CAPITAL DEVELOPMENT COMMITTEE THE APPROVAL OF FINANCIAL ASSISTANCE THAT INVOLVES A LEASE-PURCHASE AGREEMENT FOR a public school facility capital construction project only if the applicant provides matching moneys in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant's financial capacity, as determined by the following factors:

SECTION 4. In Colorado Revised Statutes, 22-43.7-110, **amend** (2) introductory portion as follows:

22-43.7-110. Financial assistance - grants - lease-purchase agreements.

(2) Subject to the following requirements and limitations, the board may also instruct the state treasurer to enter into lease-purchase agreements on behalf of the state to provide financial assistance to applicants by financing public school facility capital construction projects for which the state board has RECOMMENDED AND THE CAPITAL DEVELOPMENT COMMITTEE HAS authorized the provision of financial

assistance THAT INVOLVES A LEASE-PURCHASE AGREEMENT pursuant to section 22-43.7-109 (7):

SECTION 5. In Colorado Revised Statutes, 22-43.7-111, **amend** (1) introductory portion; and **add** (1) (e) as follows:

22-43.7-111. Reporting requirements - auditing by state auditor. (1) No later than February 15, 2010, and no later than each February 15 thereafter, the board shall present a written report to the education and finance committees of the house of representatives and the senate AND THE CAPITAL DEVELOPMENT COMMITTEE, or any successor committees, regarding the provision of financial assistance to applicants pursuant to this article. The report shall include, at a minimum:

(e) AN ESTIMATE, TO THE EXTENT FEASIBLE, OF THE TOTAL AMOUNTS OF REVENUES TO BE CREDITED TO THE ASSISTANCE FUND DURING THE CURRENT FISCAL YEAR AND THE NEXT FISCAL YEAR AND FINANCIAL ASSISTANCE TO BE AWARDED DURING THE NEXT FISCAL YEAR, INCLUDING SEPARATE ESTIMATES OF THE TOTAL AMOUNTS OF FINANCIAL ASSISTANCE TO BE AWARDED AS CASH GRANTS AND UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2).

SECTION 6. Applicability. This act applies to applications for financial assistance filed on or after the effective date of this act.

SECTION 7. 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: June 5, 2013