



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Memorandum

January 28, 2025

TO: Members of the Capital Development Committee
FROM: Capital Development Committee Staff
SUBJECT: Capital Development Committee Staff Proposed Legislation

Introduction

This memorandum provides a summary of several statutory changes Capital Development Committee (CDC) staff are proposing to Sections 2-3-1301 through 2-3-1308, C.R.S., which lay out the duties of the CDC, and to other capital construction-related statutes.

Detailed Overview of Each Proposed Change

Encumbrance of Funds Deadline

Currently, agencies and institutions of higher education must encumber funds for their capital projects, or request a waiver, within six months of the day that the Long Bill is signed. This deadline leads to confusion every year since the date is always different. While the deadline is intended to ensure the projects get underway in a timely manner, this results in some projects returning to the committee simply due to confusion about the date.

Proposed change: Establish a date in statute by when funds must be encumbered, such as November 1, to help state entities plan and to reduce the number of waivers sought.

Encumbrance of Funds Deadline Waiver to an Extension

As described above, agencies and institutions of higher education may request a waiver from the deadline to encumber funds for capital construction projects. This ensures that projects get underway during the fiscal year for which they are appropriated. Once the deadline is waived, these projects lack subsequent legislative oversight. If a project cannot encumber funds within six months, the waiver approval process provides the CDC with an opportunity to evaluate the conditions of the project delay, but it forgoes any further opportunity to assess the project if other issues arise or if the cause of the delay remains unresolved.

Proposed change: Change the waiver to an extension, for example an additional 6 or 12 months, so that if the agency or institution continues to not encumber the funds, the CDC



and the State Controller have additional oversight. Most projects that seek a waiver are able to encumber funds by the end of the fiscal year, and this change would not affect them. It would only allow for additional oversight for the rare projects that are unable to begin within a year of their appropriation.

Treasurer's Report Due Date

The Treasurer's Office is currently required to submit an annual report to the CDC on the fiscal health of state institutions of higher education by September 1 of every year. However, this date is inconsistent with the audit schedules for the institutions, resulting in a mix of data from different fiscal years contributing to the report.

Proposed change: Delay the report's due date until March 1 each year to have more consistent and up-to-date information from the Treasurer's Office.

Two-Year Cash List Process

The current practice for approving cash-funded projects at state institutions of higher education is that the college or university brings requests before the committee as they arise. This differs from the statutory requirements, which include maintaining a two-year list of all planned projects and presenting it to the committee at least annually. During the 2020 legislative session, the CDC ran legislation to conform statute to current practice. [House Bill 20-1341](#) passed out of its first committee of reference but was deemed lost after the legislature significantly narrowed the number of bills it would consider due to the pandemic.

Proposed change: Include the changes from HB 20-1341 to conform the approval of higher education cash projects to current practice.

OSPB Priority Update Due Date

The Office of State Planning and Budgeting (OSPB) submits its recommended priority of funding for capital construction projects as part of the November 1 budget package. It may then update its recommendations by the following January 1. However, January 1 is always a state holiday and in practice OSPB sends updates just after the deadline.

Proposed change: Modify the statutory deadline to January 2 to conform to current practice and clarify the legislature's expectations.



Simplify Chair Election Schedule

The CDC elects its chair and vice-chair at the first meeting held on or after October 15 in each odd-numbered year and at the first December meeting in each even-numbered year (i.e. each election year). This schedule was established by [House Bill 19-1020](#). Prior to 2019, the CDC election took place after the October date each year. This change was made, in part, to prevent a tight turnaround between the general election and the next CDC meeting at which a new chair and vice chair must be elected. This results in inconsistency about how long Senate and House members serve as committee chairs, depending on the committee schedule in a particular year.

Proposed change: Simplify the chair and vice chair election schedule to be the first December meeting each year, and clarify which members are eligible for election.

Department of Transportation Submission Requirement

Currently, the Transportation Commission must submit at least one capital request to the CDC every year. No other state agency or institution of higher education is required to annually submit projects to the CDC. The inflexibility of this requirement means that the Department of Transportation must annually put together time-consuming proposals regardless of need and it prevents them from removing proposals from consideration when other funding sources arise. Last year, the department secured other funding for the Vail Pass Supporting Structure for Avalanche Defense on I-70 project, but was unable to remove it from the CDC's consideration due to the statutory requirement.

Proposed change: Replace "shall" with "may" in statute to give the department and the commission more flexibility to only submit capital project requests when needed.

Art in Public Places Program Waivers

The statute governing the Art in Public Places program establishes criteria for exemption, such as controlled maintenance projects, agricultural projects, or environmental cleanup projects. CDC, in consultation with the program, can also waive the requirement if a project is deemed not to meet the original purpose of the program, but only if one of the existing criteria is met.

Proposed change: Clarify if that CDC may waive the Art in Public Places program requirements, in consultation with the program, even if the circumstances fall outside the established criteria.

Clarify Spending Authority from Supplemental Appropriations

When a capital project receives a supplemental appropriation, current law says it is available for "three full fiscal years commencing with the fiscal year during which the supplemental



appropriation act was enacted.” This creates ambiguity because the supplemental bill is signed partway through the fiscal year and is therefore not a full fiscal year.

Proposed change: Clarify that the supplemental bill extends spending authority for the remainder of that fiscal year plus two additional fiscal years.

Potential Committee Action

If the CDC elects to propose one or more of the changes to the General Assembly via legislation, it must vote to have a bill drafted. The Office of Legislative Legal Services will then bring the bill draft to a subsequent CDC meeting, where the committee may review the text and approve it for introduction as committee legislation.