

PROPOSED RULES PREAMBLE

Brief explanation of proposed rule

The Texas Higher Education Coordinating Board proposes amendments to Chapter 17, Subchapter B, Section 17.12, concerning delegation of approval authority for capital projects.

Specifically, these amendments will make necessary changes to existing delegation authority to facilitate changes to project standards.

Fiscal note and estimated cost to state and local government (or estimated reduction in costs to state and local government, and/or estimated loss of increase in revenue to state and local government)

Ms. Susan Brown, Assistant Commissioner for Planning and Accountability, Texas Higher Education Coordinating Board (THECB) has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering this change to the rules.

Public Benefit and local employment impact

Ms. Brown, Assistant Commissioner, Texas Higher Education Coordinating Board (THECB) has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be more efficient and effective administration of the capital project approval process. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Request for comments

Comments on the proposal may be submitted to Gary Johnstone, Deputy Assistant Commissioner for Planning and Accountability, Texas Higher Education Coordinating Board (THECB), 1200 East Anderson Lane, Austin, TX, 78752 gary.johnstone@theccb.state.tx.us . Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Statutory basis for amendment (or new rule)

The amendments are proposed under the Texas Education Code, Sections 61.0572, 61.058, and 61.0582.

Statutes, articles, codes affected by the proposed action

The amendments affect the following Texas Education Code, Sections 61.0572, 61.058, and 61.0582.

CHAPTER 17. Resource Planning

SUBCHAPTER B. Board Approval

Section

- 17.10. Board Approval
- 17.11 Projects Exempt from Board Approval
- 17.12 Delegation of Approval Authority
- 17.13 Approval Considerations
- 17.14 Re-Approval of Projects
- 17.15 Expedited Process for Certain Projects

17.12 Delegation of Approval Authority

(a) Commissioner. The Board authorizes the Commissioner, and the Deputy Commissioner for Academic Planning and Policy when acting on behalf of the Commissioner, to review or approve the following types of projects upon certification of authority by the proposing institution's governing board that the project meets all of the specified Board standards for that project type.

- (1) New construction with a total project cost of \$15 million but less than \$25 million;
- (2) Repair and renovation of existing buildings or facilities with a total project cost of \$15 million but less than \$25 million;
- (3) Gifts or acquisition of improved real property with E&G space having a value of \$5 million but less than \$10 million;
- (4) Purchase of real property having a value of \$5 million but less than \$10 million;
- (5) Evaluation of projects funded more than 50 percent with tuition revenue bond proceeds that meet Board standards having a total projected cost of \$25 million or more;
- (6) Auxiliary enterprise projects being acquired, constructed, or renovated without the use of state general revenue funds and with a total project cost of \$15 million but less than \$25 million;
- (7) Projects previously reviewed or approved by the Commissioner but requiring first or second reconsideration under the provisions of Section 17.14 of this title (relating to Re-approval of Projects), providing they continue to be eligible for Commissioner approval;
- (8) Projects previously reviewed or approved by the Board, Committee, or Commissioner that require reconsideration under the provisions of Section 17.14 of this title (relating to Re-approval of Projects) relating to any change in the funding source of an approved project with a total projected cost of \$25 million or more; and
- (9) New construction, major repair and renovation, or property acquisition that affects only the University System and not a member institution, and has a total projected cost of \$15 million but less than \$25 million;
- (10) Emergency requests eligible for Commissioner approval under the provisions of Section

17.22 of this title (relating to Emergency Approval of Projects)~~[-and-]~~

(11) Projects not meeting the criteria of Section 17.3(57) of this title (relating Definitions, Planned Projects), that are otherwise eligible for Commissioner level approval; and

(12) ~~[(11)]~~ Any project referred to the Commissioner by the Assistant Commissioner.

(b) Assistant Commissioner. The Board authorizes the Assistant Commissioner and the Deputy Assistant Commissioner for Planning and Accountability when acting on behalf of the Assistant Commissioner, to approve the following types of projects, upon certification of authority by the proposing institution's governing board that the project meets all of the specified Board standards for that project type:

- (1) New construction with a total project cost less than \$15 million;
- (2) Repair and renovation of existing buildings or facilities with a total project cost less than \$15 million;
- (3) Gifts or acquisition of improved real property with E&G space having a value less than \$5 million;
- (4) Purchase of real property having a value less than \$5 million;
- (5) Evaluation of projects funded more than 50 percent with tuition revenue bond proceeds that meet Board standards with a total projected cost less than \$25 million;
- (6) Auxiliary enterprise projects being acquired, constructed, or renovated without the use of state general revenue funds and with a total project cost less than \$15 million;
- (7) Projects previously reviewed or approved by the Assistant Commissioner but requiring first or second reconsideration under the provisions of Section 17.14 of this title (relating to Re-approval of Projects), providing they continue to be eligible for Assistant Commissioner approval;
- (8) Projects previously reviewed or approved by the Board, Committee, Commissioner, Deputy Commissioner for Academic Planning and Policy, or Assistant Commissioner that require reconsideration under the provisions of Section 17.14 of this title (relating to Re-approval of Projects) relating to any change in the funding source of an approved project with a total projected cost less than \$25 million;~~[and]~~
- (9) New construction, major repair and renovation, or property acquisition that affects only the University System, and not a member institution, and has a total projected cost less than \$15 million~~[-];~~ and

(10) Projects not meeting the criteria of Section 17.3(57) of this title (relating to Definitions, Planned Projects), that are otherwise eligible for Assistant Commissioner level approval.

(c) Committee on Affordability, Accountability and ~~[Strategic]~~ Planning. The Board authorizes the Committee to approve the following types of projects, upon certification of authority by the proposing institution's governing board:

- (1) New construction projects having a total project cost of \$25 million but less than \$50 million;
- (2) Repair and renovation of existing buildings or facilities having a total project cost of more than \$25 million;
- (3) Purchase of real property having a value of \$10 million but less than \$25 million;
- (4) Gifts or acquisition of improved real property with E&G space having a value of \$10 million but less than \$25 million;
- (5) Evaluation of projects funded more than 50 percent with tuition revenue bond proceeds and not qualifying for Commissioner approval;
- (6) Auxiliary enterprise projects having a total project cost of \$25 million but less than \$50 million;
- (7) Projects previously approved but requiring re-approval under the provisions of Section 17.14 of this title (relating to Re-approval of Projects) and not eligible for re-approval by the Commissioner;
- (8) Any new construction, major repair and renovation, or property acquisition submitted by a University System that only affects the system, and not a component institution with a total projected cost of \$25 million or more;
- (9) Emergency requests eligible for Committee approval under the provisions of Section 17.22 of this title (relating to Emergency Approval of Projects).
- (10) Any project referred to the Committee by the Commissioner or the Assistant Commissioner; ~~and~~
- (11) Any project requiring a third re-approval under the provisions of Section 17.14 of this title (relating to Re-approval of Projects)~~[-]; and~~
- (12) Projects not meeting the criteria of Section 17.3 (57) of this title (referring to planned projects), that are otherwise eligible for Committee on Affordability, Accountability, and Planning level approval.

(d) Board. The following types of projects shall be considered for approval by the Board:

- (1) New construction with a total project cost of \$50 million or more;
- (2) Purchase of real property having a value of \$25 million or more;
- (3) Gifts or acquisition of improved real property with E&G space having a value of \$25 million or more;
- (4) Auxiliary enterprise projects costing \$50 million or more; and
- (5) Any project referred to the Board by the Committee or the Commissioner.

(e) The Commissioner may refer projects to the Committee or the Board. The Committee may refer projects to the Board. The Assistant Commissioner may refer projects to the Deputy Commissioner for Academic Planning and Policy, or the Commissioner.

(f) Decisions of the Committee [~~on Strategic Planning~~] are final. Decisions of the Commissioner may be appealed to the Board.

(g) Decisions of the Assistant Commissioner may be appealed to the Deputy Commissioner for Academic Planning and Policy, or the Commissioner.