HIGHER EDUCATION COORDINATING COMMISSION
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Docket Item:

Capital Improvement Repair and Renewal Allocation

Summary:

☒ New Rule
☐ Amend Existing Rule
☐ Repeal Rule
☐ Temporary
☒ Permanent

Prompted by:
☒ State law changes
☐ Federal law changes
☐ Other

The Funding and Achievement Subcommittee of the HECC established a Capital Improvement and Renewal Technical Workgroup to develop the formulas that would guide the proceeds of capital improvement repair and renewal bonds approved for the 2017-2019 biennium, as well as for the allocations of those proceeds for subsequent biennia.

The Workgroup included representatives from the seven public universities, HECC and the Department of Administrative Services.

The rule reflects the development of a capital improvement repair and renewal allocation formula based upon an adjusted gross square feet factor and a density factor including faculty, student, employee and contractor FTEs.

Legislative History

SB 5505 (2017) authorized $112.3 million in Article XI-Q bonds in the 2017-19 biennium for 11 specific capital construction projects at six public universities and OSU-Cascades, including cost of issuance. An additional $50 million in net Article XI-Q bonding is authorized by the legislation for Capital Improvement and Renewal at all public universities. The purpose of the funding is explained in the associated budget report:

> *Capital Improvement and Renewal: approved $50,620,000 Article XI-Q general obligation bonds to finance $50,000,000 of project costs and $620,000 for costs of issuing the bonds. The capital improvement projects will address deferred maintenance, code compliance, safety issues, and Americans with Disabilities Act (ADA) accessibility improvements for campus facilities. The projects*

> *will not involve acquisition of buildings, structures, or land; classroom or lab modernization; or improvements to auxiliary facilities, which are typically self-supporting.*

This description of intended use is generally consistent with the prescribed use of $65 million in Article XI-Q bond funding authorized by HB 5005 in the 2015-17 biennium:

> *Capital renewal, code compliance, and safety: approved $65,770,000 Article XI-Q bonds to maintain facilities and keep the deferred maintenance backlogs from growing. These projects do not involve acquisition of buildings, structures, or land. The approved amount includes $65,000,000 for project costs and $770,000 for issuance costs.*

A significant difference between the two bills and related budget reports is the absence of direction to the HECC concerning allocation of 2017-19 funding between the public universities. The 2015-17 capital renewal, code compliance, and safety funding was intended to be distributed as follows per the HB 5005 (2015) budget report:

> *HECC initially will allocate funds to the individual universities based on square footage in education and general services facilities, following past OUS practice. Debt service on the Article XI-Q bonds will be paid with General Fund.*

Additionally, the 2015-17 funding included a budget note:

> *The Higher Education Coordinating Commission, in collaboration with the seven public universities and the Department of Administrative Services, shall submit a report by December 31, 2015 to the Legislative Fiscal Office that identifies whether and how revisions in statute and/or administrative rules are needed to better enable universities to use capital repair and renewal funds to implement disability access improvements.*

This report was completed and adopted by the Commission in December 2015. Contained within it is a recommendation to amend the name of the funding to "Capital Improvement and Renewal (CI&R)" which was implemented in the current biennium. The report included other recommendations beyond the original scope of the budget note, including the following:

> *The workgroup, beyond the needs identified in the budget note related to HB 5005 (2015) as listed above, recommends that the HECC, in conjunction with the public universities and the DAS, develop Administrative Rules or other mechanisms, as necessary, in order to define, allocate and deploy Capital Improvement and Renewal funding to campuses through the bond programs addressed in HB 3199 (2015). The end product of this process will be to provide a clear, equitable and readily understood process for all stakeholders and ensure prudent control and distribution of state resources to meet the goals identified by the Legislature through its creation of the CI&R project.*

Consistent with HB 5005 (2015), bond proceeds totaling $65 million that were made available for the purposes of Capital renewal, code compliance, and safety in February 2017 were proportionally allocated by education and general square footage at each public university. The allocation calculation process utilized data submitted by each institution with high-level review and vetting by HECC staff.

2015-17 Capital Repair Allocation Summary			
Institution	**E&G SF**	**% of Total**	**Allocation**
EOU	606,898	3.9%	$ 2,512,146
OIT	666,922	4.2%	$ 2,760,604
OSU	5,848,180	37.2%	$ 24,207,492
PSU	2,619,048	16.7%	$ 10,841,080
SOU	1,024,655	6.5%	$ 4,241,376
UO	4,099,491	26.1%	$ 16,969,110
WOU	837,865	5.3%	$ 3,468,192
Total:	**15,703,059**	**100.0%**	**$ 65,000,000**

In spring 2019, the $50 million authorized for CI&R in the 2017 Legislative session will become available. The public universities, HECC staff, and Department of Administrative Services (DAS) capital staff collaborated in developing a permanent funding allocation methodology in advance of this bond issue. Legislative Fiscal Office staff also supported the HECC establishing and codifying such an allocation methodology, as well as a requirement that universities report to the HECC on the need and use for these funds. The establishment of an allocation methodology, to be codified in administrative rule, is therefore consistent with both this LFO direction and the recommendation of the HB 5005 report.

How the Formulas Work

The 2017-2019 CIR Allocation Formula has two primary factors. First, gross square feet of each institution is tallied with a verification by each institution and then new buildings are pared out of the tally to get to an adjusted gross square feet subtotal. Second, a density factor is calculated using total employed and contracted FTEs + resident FTE + non-resident student and divided by the individual institution's total by the total gross square feet for education and general purposes. These two factors are summarized for each institution and applied in percentages to the total dollars available for the applicable biennium. A comparison table below illustrates these biennial formulas using the base budget of $65M for 2015-2017, $50M for 2017-2019, and proposed $65M for 2019-2021.

	GSF Reported 2015-17	GSF Reported 2015-17 %	Total Allocation 2015-17	Density Factor 2017-19	Adjusted GSF 2017-19	Total Allocation 2017-19	Total 2017-19 %	Density Factor 2019-21	Adjusted GSF 2019-21	Total Allocation Proposed 2019-21	Total 2019-21 %
			65,000,000	15.0%	85.0%	50,000,000		15.0%	85.0%	65,000,000	
				$ 7,500,000	$ 42,500,000			$ 9,750,000	$ 55,250,000		
EOU	606,898	3.9%	$ 2,512,146	$ 1,084,397	$ 1,188,867	$ 2,273,264	4.5%	$ 1,409,716	$ 1,545,527	$ 2,955,243	4.5%
OIT	666,922	4.2%	$ 2,760,604	$ 788,319	$ 1,802,706	$ 2,591,025	5.2%	$ 1,024,815	$ 2,343,518	$ 3,368,333	5.2%
OSU	5,848,180	37.2%	$ 24,207,494	$ 964,941	$ 16,078,229	$ 17,043,169	34.1%	$ 1,254,423	$ 20,901,697	$ 22,156,120	34.1%
PSU	2,619,048	16.7%	$ 10,841,080	$ 1,565,165	$ 6,881,045	$ 8,446,210	16.9%	$ 2,034,714	$ 8,945,358	$ 10,980,073	16.9%
SOU	1,024,655	6.5%	$ 4,241,376	$ 646,986	$ 3,268,263	$ 3,915,249	7.8%	$ 841,082	$ 4,248,742	$ 5,089,823	7.8%
UO	4,099,491	26.1%	$ 16,969,109	$ 1,249,389	$ 11,228,971	$ 12,478,360	25.0%	$ 1,624,205	$ 14,597,663	$ 16,221,868	25.0%
WOU	837,865	5.3%	$ 3,468,192	$ 1,200,804	$ 2,051,920	$ 3,252,723	6.5%	$ 1,561,045	$ 2,667,496	$ 4,228,540	6.5%
	15,703,059	100.00%	$ 65,000,000	$ 7,500,000	$ 42,500,000	$ 50,000,000		$ 9,750,000	$ 55,250,000	$ 65,000,000	

The technical workgroup, which has met regularly since May 2018, considered use of a multi-factor allocation calculations and ultimately presented HECC staff with a recommendation for a permanent allocation formula. HECC staff, in turn, followed that work with a proposed allocation formula for review and consideration by the Commission.

HECC staff received several, largely technical, comments during the rulemaking process and made some clarifying edits to further improve the rule. All comments included support for the overall rule and its concept.

Staff Recommendation:

Adopt the Rule included with the docket item.