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CHAPTER 589

HIGHER EDUCATION COORDINATING COMMISSION

OFFICE OF COMMUNITY COLLEGES AND WORKFORCE DEVELOPMENT

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FILING CAPTION: Raising the college matching amount to \$12m for XI-G bonds

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AMEND: 589-003-0100

RULE TITLE: Community College Capital Construction and Acquisition

NOTICE FILED DATE: 08/11/2025

RULE SUMMARY: The purpose of the rule amendment is to update the matching amount included within rule as a result of the passage of Senate Bill 5505, Section 9 (2) during the 2025 Regular Session. Oregon's community colleges are eligible for Article XI-G state backed bonds pursuant to the Oregon Constitution. The existing rule guides the community colleges in the process of submitting capital project requests of state backed bonds to the HECC for consideration during the state budgeting process. Law now allows colleges to request up to \$12m in such bonds per project, and the rule amendment reflects this change.

RULE TEXT:

(1) For the purposes of this rule, the following definitions apply:

- (a) "Capital construction and acquisition" is defined as new construction, the purchase of existing buildings, remodeling, maintenance, equipment and Americans with Disabilities Act (ADA) projects;
- (b) "New construction" is defined as the building of a new facility within the community college district or some significant addition to an existing facility;
- (c) "Remodeling" is defined as the renovation, restoration, or repair of an existing college district facility, the result of which places the facility in a position to provide increased access for persons who are disabled, to accommodate new uses, or house expanded activities;
- (d) "Maintenance" is defined as the renovation, restoration, repair, or replacement of any college district facilities system, or component part of such a system. Maintenance is distinguished from remodeling by the fact that it does not add to the value of the property or prolong the life of the property, but merely keeps the property in an operating condition over the useful life for which the property was acquired. Facilities systems include, but are not limited to, water systems, sewer and drainage systems, HVAC systems, light systems, road systems, electrical systems, carpets, floors, roofs, walkways, and parking lots;
- (e) "Equipment" is defined as tangible personal property of a non-consumable nature, with a useful life of more than one year and a cost exceeding a dollar amount to be specified by the Office;
- (f) ADA projects is defined as new construction, remodeling, maintenance or equipment needed to meet the

requirements of the American with Disabilities Act as defined in Public Law 101-336, as amended by PL 110-325 and the 2010 ADAAG Standards;

(g) "Eligible Projects" is defined as any construction, remodeling, maintenance, ADA project, or equipment request not prohibited by state statute or administrative rule. ORS 341.933(1) prohibits the use of state funds for the construction of student or faculty housing, facilities for spectators at athletic events, recreational facilities, student health facilities, and noninstructional portions of student centers; and

(h) "Instructional Purpose" is defined as those activities that directly support classroom, shop, or laboratory teaching, basic skills teaching, customized training, tutoring, student testing and assessment, student advising or counseling, and library services.

(2) Colleges shall prepare five-year capital plans documenting their new construction, remodeling, maintenance, equipment and ADA project needs, and the projected costs of meeting these needs.

(3) The Commission shall rely upon the submitted capital plans for the development of capital construction requests made to the Department of Administrative Services and Legislature. The Commission shall approve all capital construction requests prior to submission to the Department of Administrative Services or Legislature.

(4) In its final budget request for new construction, remodeling, maintenance, equipment, and ADA projects, the Commission shall list these projects in priority order and assign higher relative rank based on criteria as displayed in Table 1, "Community College Capital Project Review Criteria."

(5) Pursuant to ORS 341.937, and notwithstanding section (4) of this rule, the Commission shall include amounts for capital improvements in its budget request for each biennium that will be applied to the substantial reduction and eventual elimination of barriers to access by disabled persons. These capital improvements may include, but are not limited to, ADA projects. The Commission shall identify the projects as separate items on the list of capital construction projects that it submits to the Executive Branch or Legislature. The inclusion of the budget requests for these projects shall be made after consultation with the community colleges and their representatives of the disabled community at the colleges. The Commission may also include these projects on the prioritized list of projects referenced in section (5) of this rule.

(6) New construction, remodeling, and ADA projects that include new construction, maintenance, or remodeling shall be subject to the following special considerations:

(a) The cost of necessary initial equipment for a new or remodeled facility shall be an allowable expense within a new construction, remodeling or ADA project request;

(b) The acquisition of an existing facility shall be deemed a capital construction project within the meaning of this rule;

(c) The costs of acquiring land shall not be an allowable expense within a capital construction request in those cases where the capital construction project involves the acquisition of an existing facility. In those cases, the attendant land must represent the smallest practical parcel of land that will serve the acquired facility;

(d) Property subject to a leasehold interest by the college shall be eligible for remodeling funds provided the leasehold extends for at least five years beyond the date of any stated funded improvements;

(e) In accordance with ORS 350.379, institutions of higher education will report to the Joint Committee of Ways and Means prior to February 1 of each year on the amount of work performed by apprentices, women, and minority individuals under qualified contracts.

(f) New construction projects must affect facilities within the boundaries of the requesting district. Remodeling projects in areas served under an existing contracted-out-of-district agreement shall be eligible projects provided such projects otherwise qualify under this rule.

(7) In addition to requests for new construction, remodeling and ADA project funds, the Commission may make requests to the Department of Administrative Services and the Legislature for equipment purchases. The Commission shall rely upon the submitted five-year capital plans for the development of such requests. The Commission shall consult with college officials prior to developing any proposed distribution methods for equipment funds. The Commission shall not request state funds for equipment purchases that would support programs associated with those ineligible facilities listed in ORS 341.933(1).

(8) Commission requests for capital construction projects shall comply with ORS 286A.860 , and 2013 Oregon Laws, Chapter 705. The matching of state bond funds shall come from sources which may include tuition, local property tax revenues, local bond issues, gifts, grants, or other sources. The matching amount may not consist of proceeds of debt incurred by the State under any other article of the Oregon Constitution. A community college district must provide an accounting of all funds expended for any project or purchase subject to this rule. A community college may not have more than one project approved for funding with general obligation bonds authorized to be issued under Article XI-G of the Oregon Constitution. The aggregate amount authorized for issuance of state general obligation bonds under Article XI-G of the Oregon Constitution for projects at a single community college may not exceed \$12 million.

(9) The board of a community college district applying for state funds appropriated for new construction, remodeling, maintenance, or ADA new construction or remodeling project purposes shall submit plans, or reasonable estimates as appropriate, of the proposed project to the director prior to receiving any appropriation for such project. These plans shall include pertinent construction or remodeling documents and cost estimates. Upon approval of the project plans, the district may proceed to obtain bids and award construction or remodeling contracts.

(10) Upon award of the new construction, remodeling or ADA project funding, the Director shall set aside those state funds appropriated for the project. The agency shall distribute project funds to the district in periodic payments related to the progress of construction or remodeling. The amount paid to the district may not exceed:

(a) The state share of the capital construction and acquisition costs; or

(b) The amount appropriated for capital construction and acquisition costs, whichever is less.

(11) If, prior to completion of the capital construction and acquisition project, it is found necessary or desirable to substantially modify the contract or specifications covering construction or remodeling, the district must submit such modifications to the Director for approval.

(12) The community college district shall submit such records and reports during the construction or remodeling period and after completion thereof as the Director may require.

(13) The board of a community college district applying for state funds appropriated for equipment purchases shall prepare detailed descriptions of the purchases or projects. These descriptions shall be submitted to the Director along with pertinent specifications and cost estimates. Upon approval of the descriptions, the district may proceed to obtain bids and award contracts.

(14) Upon award of the grant to the college, the Director shall set aside those state funds appropriated for the equipment purchases. The Office shall distribute the equipment funds to the district on a schedule to be determined by the Director after consulting with the affected district. The amount paid to the district may not exceed:

(a) The state share of the equipment costs; or

(b) The amount appropriated for the equipment costs, whichever is less.

(15) If, at any time, it is found necessary or desirable to modify substantially a planned equipment purchase, the district must submit such modifications to the Director for approval.

(16) The community college district shall submit such records and reports during and after the equipment purchase as the Director may require.

(17) Title to any real and/or personal property items acquired under this rule is vested with the individual college receiving state funding at the time the college acquires the real and personal property.

STATUTORY/OTHER AUTHORITY: 341.933

STATUTES/OTHER IMPLEMENTED: 341.937, SB 5505 (2025), Section 9(2)

Table 1: Community College Capital Project Review Criteria

Project Criteria (50 points possible)	Points
(a) Clearly serve an instructional purpose (directly support classroom, shop or lab teaching, basic skills teaching, customized training, tutoring, student testing and assessment, student advising or counseling and library services-first priority)	7
(b) Clearly meet an important demonstrated service need of the college (second priority)	7
(c) Clearly meet a facilities' need that cannot be adequately addressed (third priority)	7
(d) Clearly serve to complete a comprehensive community college facility (fourth priority)	7
(e) Clearly meet an important and articulated objective of the college (fifth priority)	7
(f) Clearly reflect evidence of local planning and needs assessment (sixth priority)	7
(g) Clearly reflect evidence of meeting an equity need as defined in the HECC Equity Lens (seventh priority)	8
Strategic Review Criteria (26 points possible)	
(h) Does the project update, replace, or expand safety and security on campus?	6
(i) Does the project meet a demand occupation, community, or economic need?	5
(j) Does the project include other partners; K-12, university, CTE, workforce, industry, etc.?	5
(k) Description of /or intention to meeting environmental sustainability standards	5
(l) Does the project support the upgrade, replacement, expansion of student services/spaces?	5
Due Diligence Criteria (24 points possible)	
(m) Statement of need (nature of the problem and purpose to be served)	5
(n) Statement of solution (goals for the project)	5
(o) Facility (building gross square footage and academic features)	5
(p) Costs (estimated cost including planning and programming)	3
(q) Schedule (expected schedule for completion)	2
(r) Planning considerations (necessary approvals - appropriate jurisdictions)	2
(s) Financial considerations (funding for the college share)	2
Total Possible Points	100