HOW A LAW BECOMES A BUIL - DING: RECENT CHANGES TO MICHIGAN'S CAPITAL OUTLAY PROCESS

By Mike Hansen, Fiscal Analyst

In the spring of 1999, the Legislature passed Senate Bill 259 (Public Act 8 of 1999), which changed the process for completing capital outlay in Michigan. Public Act (PA) 8 of 1999 amended the Management and Budget Act, PA 431 of 1984, which provides the legal and administrative framework for State budgeting, including the capital outlay process. This article highlights the changes made by PA 8 of 1999 and explains how the capital outlay process was altered by those changes, and how the process works today.

Capital outlay is that portion of the State budget that is devoted to the planning and financing of construction, renovation, and major maintenance of facilities and capital assets for use by State agencies, community colleges, and State-supported public universities. Legislative oversight of the State's capital outlay process is provided by the Joint Capital Outlay Subcommittee (JCOS), which is the only appropriations subcommittee specifically charged with duties in statute.

The amendments to PA 431 of 1984 contained in PA 8 of 1999 were intended to simplify the process for developing, planning, and financing State construction projects, and to make compliance with the process less cumbersome. The previous capital outlay process had been in a continual state of refinement and change over the past 30 years and often was characterized as much by its inconsistency as its complexity. Typically, projects went through as many as 24 different specific approvals, from initial authorization through construction. While these various approval steps provided breaking points in the process to allow for executive and legislative oversight, they also tended to delay, and consequently frustrate those involved in bringing a State-funded construction project to fruition.

Furthermore, capital outlay projects often were initiated with the inclusion of a total project cost authorization in an appropriation bill before any detailed planning had taken place. This frequently resulted in subsequent requests to increase a project's authorized cost, or to amend the original program in order to reduce the project's scope so that the project would meet the original cost authorization.

Under the new capital outlay process outlined in PA 8 of 1999, the number of formal approvals by the JCOS has been reduced. The intent of the legislation was to minimize the time between a project's initial request for planning, and the completion of the project. In addition, instead of authorizing total project costs up front, the first step in the new process provides authorization for the completion of a program statement and planning documents developed by an architect or engineer.

In summary, the new capital outlay process enacted in PA 8 of 1999 creates a system for capital outlay that follows the course outlined on the following page:

1. State agencies, colleges, and universities submit annual capital outlay requests to the Department of Management and Budget (DMB).

2. The Department of Management and Budget recommends approved project requests to the Legislature for planning authorization in the annual capital outlay budget request.

3. Planning projects recommended by the DMB are reviewed, amended, or omitted by the JCOS and the full Legislature.

4. Legislatively approved planning projects receive a line item appropriation in a capital outlay appropriation bill. State agency projects are appropriated the actual costs for planning while college and university projects receive a $100 line item that establishes the project and authorizes the institution to spend its own money for the completion of professionally developed program and schematic planning documents. (Colleges and universities may apply these costs against their required project match, as discussed below.)

5. Completed planning documents are submitted to the DMB for review and approval. Those plans approved by the DMB are then forwarded to the JCOS for its approval. Once approved by the JCOS, a total project cost and method of financing are included in an appropriation bill. State agency projects are funded either with a lump sum General Fund appropriation, or through the issuance of bonds by the State Building Authority (SBA). College and university projects require a financial match from the institution. Typically, 50% of college projects are funded by the college, and 50% by the SBA, while university projects are funded 25% by the university and 75% by the SBA.

6. A project moves into final design and construction with authorization for financing in an appropriation bill. The Department of Management and Budget reviews and approves preliminary and final planning documents before the project goes out for bid. Bid results are submitted to the JCOS.

7. Once construction begins, the SBA requests approval of a resolution that conveys ownership of the facility to the Authority and establishes an estimated rental cost for the facility. The rental payments from the State to the Authority allow the SBA to pay off bonds sold to finance the project's construction. The Legislature's passage of a concurrent resolution to convey ownership to the SBA is the final formal legislative act in the completion of the capital project. Once the bonds have been paid off, the building is conveyed back to the State, college, or university.

While the process delineated above is in large part described in law, it is important to remember that the decisions and method by which a capital project is developed are ultimately a process that involves negotiation and compromise. Therefore, from time to time, the capital outlay process will follow a course that may deviate somewhat from what has been outlined in this article.