

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED NEW REGULATION**

DATE: 2/28/22

REGULATION NUMBER AND TITLE: 14.002, Reserves for New Construction

SUMMARY: At the January 5, 2022 meeting, the Board approved a Plan to address the current backlog of deferred capital needs in the SUS and, importantly, help avoid the issue going forward. The Plan provides for, among other things, the following:

- **Consider increasing the (statutorily-required) 1% reserve on new projects, and establish governing parameters for the use and preservation of reserve balances.**

Section 1001.706(12), Florida Statutes, governing PECO-funded projects, provides for the following:

(c) A new construction, remodeling, or renovation project that has not received an appropriation in a previous year shall not be considered for inclusion on the prioritized list required by s. 1013.64(4), unless:

- 1. A plan is provided to reserve funds in an escrow account, specific to the project, into which shall be deposited each year an amount of funds equal to 1 percent of the total value of the building for future maintenance;*

The above language represents the entire statutory provision governing such reserves.

The proposed new Board Regulation 14.002 enhances the statutory requirement, increasing annual reserve funding on new construction to 2% (inclusive of the statutory 1%) as well as requires accountability for reserve funds and university board of trustees oversight.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Kevin Pichard, Director, Finance and Facilities

COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

14.002 Reserves for New Construction

- (1) To enhance the requirements in Section 1001.706(12)(c), Florida Statutes, for any new construction of an education & general (E&G) facility, funded in whole or in part with State appropriations, the university must institute a plan to reserve funds in an escrow account, specific to the project, into which shall be deposited each year an amount of funds equal to two percent (2.0%) of the total value of the building.
- (2) For the purpose of establishing annual reserve contribution, the building value should be based on total construction cost or insurable value upon construction completion, whichever is greater.
- (3) The required 2.0% annual contribution is inclusive of the 1% required pursuant to Section 1001.706(12)(c), Florida Statutes.
- (4) The established reserve must be dedicated to the project/facility. Reserve funds are not to be expended on other projects/facilities.
- (5) The university is responsible for keeping a detailed account of each reserve, to include, at a minimum, the project/facility to which it is dedicated, the dollar amount and source of annual deposits, accrued balance, and the dollar amount and use of any expenditures. The university shall report this information to the board of trustees on an annual basis.
- (6) This regulation is effective July 1, 2022, and applicable to any new construction project of an E&G facility where construction is initiated on or after July 1, 2022.