

Effective 5/12/2015

Superseded 5/10/2016

53C-1-201 Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

- (1)
 - (a) There is established within state government the School and Institutional Trust Lands Administration.
 - (b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.
- (2) The administration is an independent state agency and not a division of any other department.
- (3)
 - (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).
 - (b)
 - (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.
 - (ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.
 - (iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.
 - (iv) Section 63G-2-403 does not apply during the review period.
 - (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:
 - (i) the changes in business opportunities affecting the assets of the trust;
 - (ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;
 - (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;
 - (iv) approval by at least five board members; and
 - (v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).
 - (d)
 - (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).
 - (ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

- (iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).
 - (iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.
 - (v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.
- (e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.
- (f)
- (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.
 - (ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.
- (g)
- (i) The administration is not subject to Subsection 63J-1-206(3)(f).
 - (ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.
 - (iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.
 - (iv) The Legislative Executive Appropriations Committee may recommend:
 - (A) that the administration transfer the appropriated funds between line items;
 - (B) that the administration not transfer the appropriated funds between line items; or
 - (C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.
- (4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.
- (5)
- (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.
 - (b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

- (6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-2c-102 or Section 48-3a-102.
- (7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.