

1 **UTAH CORRECTIONAL INDUSTRIES**

2 **BUSINESS PARK**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Leonard M. Blackham**

6 AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND FACILITIES
7 CONSTRUCTION AND MANAGEMENT; CREATING A CORRECTIONAL INDUSTRIES
8 BUSINESS PARK AND ESTABLISHING PROCEDURES AND REQUIREMENTS FOR
9 LESSEES AT THE PARK.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **63A-5-206**, as last amended by Chapters 225 and 285, Laws of Utah 1998

13 **64-13a-3**, as last amended by Chapter 92, Laws of Utah 1987

14 **64-13a-6**, as last amended by Chapter 13, Laws of Utah 1994

15 ENACTS:

16 **63A-5-307**, Utah Code Annotated 1953

17 **64-13a-15**, Utah Code Annotated 1953

18 *Be it enacted by the Legislature of the state of Utah:*

19 Section 1. Section **63A-5-206** is amended to read:

20 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
21 **director -- Exceptions -- Expenditure of appropriations.**

22 (1) As used in this section:

23 (a) "Analysis" means an economic assessment of competing design and maintenance
24 alternatives, the object of which is to reduce cost and conserve energy.

25 (b) "Capital developments" means any:

26 (i) remodeling, site, or utility projects with a total cost of \$1,000,000 or more;

27 (ii) addition of new space that will cost more than \$100,000; or

28 (iii) land acquisition where an appropriation is requested.

29 (c) "Capital improvements" means any:

30 (i) remodeling, alteration, repair project with a total cost of less than \$1,000,000; or

31 (ii) site and utility improvement with a total cost of less than \$1,000,000.

32 (d) "Life cycle cost-effective" means the lowest cost of owning and operating a facility
33 over a 25-year period, including the initial cost, energy costs, operation and maintenance costs,
34 repair costs, and the costs of energy conservation and renewable energy systems.

35 (e) "Renewable energy system" means a system designed to use solar, wind, geothermal
36 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
37 building.

38 (f) "State-owned facilities" means those facilities identified in Section 63A-5-212.

39 (2) The director shall prepare or have prepared by private firms or individuals designs,
40 plans, and specifications for the various buildings and improvements, and other work carried out
41 by the division.

42 (3) (a) (i) Except as provided in Subsection (3)(a)(ii) or (3)(a)(iii), and except for facilities
43 under the jurisdiction of the State Capitol Preservation Board, the director shall recommend the
44 need for and exercise direct supervision over the design and construction of all alterations, repairs,
45 and improvements to all existing facilities of the state, its departments, commissions, institutions,
46 and agencies if the total project construction cost is greater than \$100,000.

47 (ii) The director may:

48 (A) authorize a department, commission, institution, or agency to control design and
49 construction of alterations, repairs, and improvements when the total project construction cost is
50 greater than \$100,000 by following the delegation requirements and procedures of Subsection
51 (3)(c); or

52 (B) by rule, authorize a particular department, commission, institution, or agency to control
53 design and construction on projects within a particular dollar range and a particular project type.

54 (iii) (A) At the request of This is the Place Foundation, the director may authorize the
55 foundation to control design and construction of alterations, repairs, or improvements to facilities
56 at This is the Place State Park to be made with funds of the foundation, including grant monies
57 from the state, or with donated services or materials.

58 (B) If the foundation controls design and construction as provided in Subsection

59 (3)(a)(iii)(A), the alterations, repairs, or improvements are subject to plan review and inspection
60 by Salt Lake City for the purpose of assuring compliance with building codes.

61 (b) (i) Except for the placement or installation of works of art through Title 9, Chapter 6,
62 Part 4, Utah Percent-for-Art Act, or as provided in Subsection (3)(b)(ii), and except for facilities
63 under the jurisdiction of the State Capitol Preservation Board, an existing facility may not be
64 altered, repaired, or improved on the property of any state institution, department, commission, or
65 agency if the total project construction cost exceeds \$100,000 until the location, design, plans, and
66 specifications are approved by the director and the officials charged with the administration of the
67 affairs of the particular department, commission, institution, or agency.

68 (ii) Alterations, repairs, or improvements to facilities at This is the Place State Park to be
69 made by This is the Place Foundation with funds of the foundation, including grant monies from
70 the state, or with donated services or materials, are exempt from Subsection (3)(b)(i).

71 (c) (i) The director may delegate control over design, construction, and all other aspects
72 of any project to entities of state government on a project-by-project basis if the state entity
73 requests that delegation in writing and the State Building Board approves the delegation.

74 (ii) (A) The director, his designee, or the state entity to whom control has been designated
75 pursuant to Subsection (5)(c)(i) shall notify in writing the elected representatives of local
76 government entities directly and substantively affected by any diagnostic, treatment, parole,
77 probation, or other secured facility project exceeding \$250,000, if:

78 (I) the nature of the project has been significantly altered since prior notification or
79 approval;

80 (II) the project would significantly change the nature of the functions presently conducted
81 at the location;

82 (III) the project adds 50% or more square feet to the area of the facility; or

83 (IV) the project is new construction.

84 (B) At the request of either the state entity or the local government entity, representatives
85 from the state entity and the affected local entity shall conduct or participate in a local public
86 hearing or hearings to discuss these issues.

87 (iii) The state entity to whom control is delegated shall assume fiduciary control over
88 project finances, shall assume all responsibility for project budgets and expenditures, and shall
89 receive all funds appropriated for the project, including any contingency funds contained in the

90 appropriated project budget.

91 (iv) Delegation of project control does not exempt the state entity from complying with
92 the codes and guidelines for design and construction adopted by the division and the State Building
93 Board.

94 (v) State entities that receive a delegated project may not have access to the building board
95 contingency funds authorized in Section 63A-5-209 for the delegated project.

96 (4) (a) The director shall ensure that state-owned facilities, except for facilities under the
97 control of the State Capitol Preservation Board, are life cycle cost-effective.

98 (b) The estimated cost of the analysis shall be included in each program budget document
99 and in the project funding request submitted to the State Building Board, the governor, and the
100 Legislature.

101 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

102 (d) The director, in consultation with the State Building Board and Division of Energy,
103 shall make rules to implement this subsection by following the procedures and requirements of
104 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

105 (e) The State Building Board may exempt a facility from being life cycle cost-effective
106 pursuant to rules, after reviewing and concurring with a written request and justification from the
107 director.

108 (5) (a) Except as provided in Subsection (5)(c) or (5)(d), and except for facilities
109 constructed on property under the jurisdiction of the State Capitol Preservation Board, the director
110 shall recommend the need for and exercise direct supervision over the design and construction of
111 all new facilities of the state, its departments, commissions, institutions, and agencies if the total
112 project construction cost is in excess of \$100,000.

113 (b) (i) Except for the placement or installation of works of art under Title 9, Chapter 6,
114 Part 4, Utah Percent-for-Art Act, or as provided in Subsection (5)(b)(ii), (5)(b)(iii), or (5)(b)(iv),
115 and except for facilities constructed on property under the jurisdiction of the State Capitol
116 Preservation Board, a new facility may not be constructed on the property of any state department,
117 commission, institution, or agency if the total project construction cost of the facility, regardless
118 of the funding source, exceeds \$100,000, until the construction of the facility has been approved
119 by the Legislature in an Appropriations Act or by other specific legislation, and the location,
120 design, plans, and specifications are approved by the director and the official charged with the

121 administration of the affairs of the particular department, commission, institution, or agency.

122 (ii) Facilities to be built with nonstate funds and owned and occupied by nonstate entities
123 within research park areas are exempt from this Subsection (5)(b).

124 (iii) Facilities to be built for the Utah National Guard for which the funding for
125 construction, operations, and maintenance are derived totally from the United States Government
126 are exempt from the requirement of obtaining legislative approval required by this Subsection
127 (5)(b).

128 (iv) New facilities to be built at This is the Place State Park by This is the Place
129 Foundation with funds of the foundation, including grant monies from the state, or with donated
130 services or materials, are exempt from Subsection (5)(b)(i).

131 (v) (A) Facilities to be built at the UCI Business Park created in Section 64-13a-15 are
132 exempt from Subsection (5)(b) if the facility:

133 (I) is to be built with funds not provided by the state; and

134 (II) is to be developed under a land lease.

135 (B) This exemption does not apply to facilities to be funded or financed by the state,
136 except that facilities costing less than \$500,000 and funded by the Division of Correctional
137 Industries created under Section 64-13a-4 are exempt from the requirement of obtaining legislative
138 approval.

139 (c) (i) The director may delegate control over design, construction, and all other aspects
140 of any project to entities of state government on a project-by-project basis if the state entity
141 requests that delegation in writing and the State Building Board approves the delegation.

142 (ii) The state entity to whom control is delegated shall assume fiduciary control over
143 project finances, shall assume all responsibility for project budgets and expenditures, and shall
144 receive all funds appropriated for the project, including any contingency funds contained in the
145 appropriated project budget.

146 (iii) Delegation of project control does not exempt the state entity from complying with
147 the codes and guidelines for design and construction adopted by the division and the State Building
148 Board.

149 (iv) State entities that receive a delegated project may not have access to the building board
150 contingency funds authorized in Section 63A-5-209 for the delegated project.

151 (d) (i) At the request of This is the Place Foundation, the director may authorize the

152 foundation to control design and construction of any new facility at This is the Place State Park
153 to be built with funds of the foundation, including grant monies from the state, or with donated
154 services or materials.

155 (ii) If the foundation controls design and construction as provided in Subsection (5)(d)(i),
156 the new facility is subject to plan review and inspection by Salt Lake City for the purpose of
157 assuring compliance with building codes.

158 (6) The director may expend appropriations for statewide projects from funds provided by
159 the Legislature for those specific purposes and within guidelines established by the State Building
160 Board.

161 (7) (a) The director, with the approval of the Office of Legislative Fiscal Analyst, shall
162 develop standard forms to present capital development and capital improvement cost summary
163 data.

164 (b) The director shall:

165 (i) within 30 days after the completion of each capital development project, submit cost
166 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst; and

167 (ii) upon request, submit cost summary data for a capital improvement project to the Office
168 of Legislative Fiscal Analyst on the standard form.

169 (8) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures Act,
170 the director may:

171 (a) accelerate the design of projects funded by any appropriation act passed by the
172 Legislature in its annual general session;

173 (b) use any unencumbered existing account balances to fund that design work; and

174 (c) reimburse those account balances from the amount funded for those projects when the
175 appropriation act funding the project becomes effective.

176 Section 2. Section **63A-5-307** is enacted to read:

177 **63A-5-307. Leasing of Utah Correctional Industries Business Park.**

178 (1) As used in this section:

179 (a) "Compliance agency" has the same definition as in Section 58-56-3.

180 (b) "DCI" means the Division of Correctional Industries, created under Subsection
181 64-13a-4(a).

182 (c) "Lessee" means a business or local government that leases property in the UCI

183 Business Park.

184 (d) "Local government" means the county or municipality that would have jurisdiction to
185 act as the compliance agency regarding any improvement or construction being made on UCI
186 Business Park property as if that property were not owned by the state.

187 (e) "UCI" means the Utah correctional industries program which is operated by the DCI.

188 (f) "UCI Business Park" means the property owned by the state, consisting of
189 approximately 120 acres that lie west of the prison complex in Draper and south of the Bangerter
190 Highway.

191 (2) The division may lease property in the UCI Business Park to a lessee if the following
192 conditions are satisfactorily met:

193 (a) the DCI has certified that the lease will result in the employment of offenders as
194 provided in Section 64-13a-15;

195 (b) the Department of Corrections has not raised security objections regarding the lease;

196 (c) DCI has approved the business terms of the lease; and

197 (d) the lease provides appropriate consideration to the state based on the value of the
198 property leased.

199 (3) The division shall ensure that the lease:

200 (a) protects the state from liability;

201 (b) places responsibility for any adverse environmental impact on the lessee;

202 (c) prohibits the manufacture or storage of significant quantities of hazardous materials
203 on the leased premises;

204 (d) requires the lessee to assume responsibility for any taxes or fees associated with its use
205 of the property and improvements on the property;

206 (e) establishes terms regarding the condition in which the lessee shall leave the property
207 upon termination of the lease; and

208 (f) provides that any improvements acquired or constructed upon the premises during the
209 term of the lease revert to and become the property of the state upon the expiration or termination
210 of the lease, including any extensions or renewals of the lease.

211 (4) Proceeds derived from the lease of property at the UCI Business Park shall be
212 deposited in the Utah Correctional Industries Enterprise Fund created in Section 51-5-4.

213 (5) The design, plans, and specifications of any proposed improvements by a lessee are

214 subject to review and approval by the division and DCI, including compliance with the planning
215 guidelines and restrictions of the UCI Business Park.

216 (6) The use of the UCI Business Park and any improvements constructed on the park
217 property, including improvements constructed by the private sector or local governmental entities,
218 is not subject to the zoning authority of local government as provided in Section 10-9-105.
219 However, the division and DCI shall consider comments from local governmental entities that are
220 or may be affected by the use of the property.

221 (7) (a) A lessee that is not a state agency shall submit all plans for any improvements
222 within the UCI Business Park for plan review and construction inspection by the local government.

223 (b) The authority of the local government is limited to the enforcement of building codes
224 as adopted by the Uniform Building Codes Commission established in Section 58-56-5.

225 (c) Any improvement within the UCI Business Park to which title is not held by the state
226 is subject to the same jurisdiction for enforcement of fire and health codes as would apply as if the
227 site of the improvement were not owned by the state.

228 (d) The local government under this Subsection (7) may charge a building permit fee by
229 the same process and in the same amount as if the site of the improvement were not owned by the
230 state.

231 Section 3. Section **64-13a-3** is amended to read:

232 **64-13a-3. Definitions.**

233 As used in this chapter:

234 [(2)] (1) "Board" means the Advisory Board of Utah Correctional Industries.

235 [(1)] (2) "Division" means the Division of Correctional Industries.

236 (3) "Lessee" means a private sector business or local governmental entity that leases
237 property within the UCI Business Park.

238 (4) "UCI" Business Park" means the real property owned by the state and consisting of
239 approximately 120 acres that lie west of the state prison complex in Draper and south of the
240 Bangerter Highway.

241 Section 4. Section **64-13a-6** is amended to read:

242 **64-13a-6. Board powers and duties.**

243 The board has the following powers and duties:

244 (1) advise which enterprises should be conducted in the correctional facilities, and the

245 volume, kind, and place of enterprises, as to eliminate unnecessary inmate idleness at all facilities
246 and to provide diversified work activities which will serve as a means of enhancing vocational
247 skills;

248 (2) advise whether any enterprise should be established, expanded, diminished, or
249 discontinued;

250 (3) advise as to the establishment of policy with respect to the conduct of all enterprises;

251 (4) advise the prices at which all services and products provided, manufactured, produced,
252 or harvested by enterprises shall be furnished;

253 (5) consult regularly with state agencies and local public entities in order to develop new
254 enterprise products, adopt existing enterprise products, and establish new service functions to meet
255 their needs;

256 (6) act as liaison with private industry, organized labor, the Legislature, and the general
257 public;

258 (7) obtain and provide technical assistance for enterprise programs;

259 (8) recommend to the division the adoption of rules necessary to carry out the provisions
260 of this chapter;

261 (9) review and monitor an annual budget for all enterprises that includes a projected profit
262 analysis, sales forecast, and anticipated year-end financial forecast;

263 (10) advise on the development and management of the UCI Business Park, including the
264 types of businesses that should be solicited;

265 [~~(10)~~] (11) assist in the process of inmate occupational placement upon release from
266 confinement by coordination with the Board of Pardons and Parole, correctional institutions, and
267 field operations; and

268 [~~(11)~~] (12) prepare an annual report to the governor and the Legislature that contains:

269 (a) a detailed financial statement for each enterprise in each facility;

270 (b) a detailed financial statement of the fund;

271 (c) reasons for establishing or terminating enterprises;

272 (d) a summary of plans to develop additional enterprises;

273 (e) the number of inmates employed in each enterprise;

274 (f) the number of inmates available for work at each facility; and

275 (g) any further information requested by the governor or the Legislature.

276 Section 5. Section **64-13a-15** is enacted to read:

277 **64-13a-15. Administration of the UCI Business Park.**

278 In cooperation with the Division of Facilities Construction and Management, and subject
279 to Section 63A-5-307, the division shall:

280 (1) establish, maintain, and operate the UCI Business Park for the primary purpose of
281 providing training and employment opportunities for offenders by lessees;

282 (2) establish guidelines for the employment of offenders by lessees;

283 (3) solicit lessees who will provide training and employment opportunities to offenders;

284 (4) enter into agreements for the operation and maintenance of the UCI Business Park; and

285 (5) establish requirements to provide for the security of offenders receiving training and
286 employment.

Legislative Review Note

as of 1-27-00 8:22 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel