

STATE-OWNED LAND AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kerry W. Gibson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to specified state lands.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "critical land" to include a parcel for which part of the land is exchanged;
- ▶ authorizes the Department of Natural Resources to exchange a portion of a critical land parcel if certain conditions are met; and
- ▶ authorizes the Division of Facilities Construction and Management to exchange certain land it owns with a public transit district for a specified purpose.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5-222, as last amended by Laws of Utah 2008, Chapter 250

ENACTS:

63A-5-223, Utah Code Annotated 1953

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

Section 1. Section 63A-5-222 is amended to read:

30 **63A-5-222. Critical land near state prison -- Definitions -- Preservation as open**
31 **land -- Management and use of land -- Restrictions on transfer -- Wetlands development**
32 **-- Conservation easement.**

33 (1) For purposes of this section:

34 (a) "Corrections" means the Department of Corrections created under Section 64-13-2.

35 (b) "Critical land" means:

36 (i) a parcel of approximately 250 acres of land owned by the division and located on
37 the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake
38 County, approximately the southern half of whose eastern boundary abuts the Denver and Rio
39 Grande Western Railroad right-of-way[-]; and

40 (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a
41 replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as
42 part of the transaction.

43 (c) (i) "Open land" means land that is:

44 (A) preserved in or restored to a predominantly natural, open, and undeveloped
45 condition; and

46 (B) used for:

47 (I) wildlife habitat;

48 (II) cultural or recreational use;

49 (III) watershed protection; or

50 (IV) another use consistent with the preservation of the land in or restoration of the
51 land to a predominantly natural, open, and undeveloped condition.

52 (ii) (A) "Open land" does not include land whose predominant use is as a developed
53 facility for active recreational activities, including baseball, tennis, soccer, golf, or other
54 sporting or similar activity.

55 (B) The condition of land does not change from a natural, open, and undeveloped
56 condition because of the development or presence on the land of facilities, including trails,
57 waterways, and grassy areas, that:

58 (I) enhance the natural, scenic, or aesthetic qualities of the land; or
59 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,
60 scenic, or aesthetic qualities and for compatible recreational activities.

61 (2) (a) (i) The critical land shall be preserved in perpetuity as open land.
62 (ii) The long-term ownership and management of the critical land should eventually be
63 turned over to the Department of Natural Resources created under Section 63-34-3 or another
64 agency or entity that is able to accomplish the purposes and intent of this section.

65 (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions
66 should be taken on or with respect to the critical land, including:

67 (i) the development and implementation of a program to eliminate noxious vegetation
68 and restore and facilitate the return of natural vegetation on the critical land;
69 (ii) the development of a system of trails through the critical land that is compatible
70 with the preservation of the critical land as open land;
71 (iii) the development and implementation of a program to restore the natural features
72 of and improve the flows of the Jordan River as it crosses the critical land;
73 (iv) the preservation of the archeological site discovered on the critical land and the
74 development of an interpretive site in connection with the archeological discovery;
75 (v) in restoring features on the critical land, the adoption of methods and plans that
76 will enhance the critical land's function as a wildlife habitat;
77 (vi) taking measures to reduce safety risks on the critical land; and
78 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

79 (3) (a) Except as provided in [~~Subsection~~] Subsections (3)(b) and (c), no interest in the
80 critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken
81 to ensure that the critical land that is transferred will be preserved as open land in perpetuity.

82 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to
83 resolve boundary disputes with adjacent property owners and easements may be granted for
84 trails and other purposes consistent with Subsection (2)(b) and with the preservation of the
85 critical land as open land.

86 (c) The Department of Natural Resources may transfer title to a portion of the critical
87 land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

88 (i) the parcel being acquired is:

89 (A) open land; and

90 (B) located within one mile of the portion of critical land being transferred; and

91 (ii) the purpose of the exchange is to facilitate the development of a commuter rail
92 transit station and associated transit oriented development.

93 (4) The division shall use the funds remaining from the appropriation under Laws of
94 Utah 1998, Chapter 399, for the purposes of:

95 (a) determining the boundaries and legal description of the critical land;

96 (b) determining the boundaries and legal description of the adjacent property owned
97 by the division;

98 (c) fencing the critical land and adjacent land owned by the division where appropriate
99 and needed; and

100 (d) assisting to carry out the intent of this section.

101 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the
102 critical land may develop or allow a public agency or private entity to develop more wetlands
103 on the critical land than exist naturally or existed previously.

104 (b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title
105 may transfer jurisdiction of all or a portion of the critical land to a public agency or private
106 entity to provide for the development and management of wetlands and designated wetland
107 buffer areas.

108 (ii) Before transferring jurisdiction of any part of the critical land under Subsection
109 (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to
110 obtain approval from the appropriate federal agency to allow mitigation credits in connection
111 with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

112 (6) Notwithstanding any other provision of this section, corrections shall have access
113 to the cooling pond located on the critical land as long as that access to and use of the cooling

114 pond are not inconsistent with the preservation of the critical land as open land.

115 (7) The Department of Corrections, the division, and all other state departments,
116 divisions, or agencies shall cooperate together to carry out the intent of this section.

117 (8) In order to ensure that the land referred to in this section is preserved as open land,
118 the division shall, as soon as practicable, place the land under a perpetual conservation
119 easement in favor of an independent party such as a reputable land conservation organization
120 or a state or local government agency with experience in conservation easements.

121 Section 2. Section **63A-5-223** is enacted to read:

122 **63A-5-223. Authority to transfer land for commuter rail station and related**
123 **development.**

124 The division may transfer title to a parcel of land it owns in a county of the first class
125 to a public transit district for the purpose of facilitating the development of a commuter rail
126 transit station and associated transit oriented development if:

127 (1) the parcel is within one mile of the proposed commuter rail transit station and
128 associated transit oriented development; and

129 (2) the division receives in return fair and adequate consideration.