

SALE OF STATE PROPERTY

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Richard A. Greenwood

LONG TITLE

Committee Note:

The Government Operations and Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill enacts and amends provisions relating to the sale of property by the Division of Facilities and Construction Management.

Highlighted Provisions:

This bill:

- ▶ requires the State Building Board to make rules in accordance with the approval process;
- ▶ requires the Division of Facilities and Construction Management, except in certain circumstances, to deposit the proceeds of a sale of certain state property into the General Fund;
- ▶ requires the Division of Facilities and Construction Management to submit a proposed sale of state property that is historically significant or has an appraised value of \$500,000 or more to the State Building Board, the Governor, the Legislative Management Committee, and in some cases, the Legislature; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63A-5-103**, as last amended by Laws of Utah 2010, Chapter 338

33 **63A-5-215**, as renumbered and amended by Laws of Utah 1993, Chapter 212

34 ENACTS:

35 **63A-5-402**, Utah Code Annotated 1953



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

38 Section 1. Section **63A-5-103** is amended to read:

39 **63A-5-103. Board -- Powers.**

40 (1) The State Building Board shall:

41 (a) in cooperation with state institutions, departments, commissions, and agencies,
42 prepare a master plan of structures built or contemplated;

43 (b) submit to the governor and the Legislature a comprehensive five-year building plan
44 for the state containing the information required by Subsection (2);

45 (c) amend and keep current the five-year building program for submission to the
46 governor and subsequent legislatures;

47 (d) as a part of the long-range plan, recommend to the governor and Legislature any
48 changes in the law that are necessary to insure an effective, well-coordinated building program
49 for all state institutions;

50 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
51 make rules:

52 (i) that are necessary to discharge its duties and the duties of the Division of Facilities
53 Construction and Management;

54 (ii) to establish standards and requirements for life cycle cost-effectiveness of state
55 facility projects; and

56 (iii) to govern the disposition of real property by the division in accordance with
57 Sections 63A-5-401 and 63A-5-402 and establish factors, including appraised value and
58 historical significance, in evaluating the disposition;

59 (f) with support from the Division of Facilities Construction and Management,
60 establish design criteria, standards, and procedures for planning, design, and construction of
61 new state facilities and for improvements to existing state facilities, including life-cycle
62 costing, cost-effectiveness studies, and other methods and procedures that address:

63 (i) the need for the building or facility;

64 (ii) the effectiveness of its design;

65 (iii) the efficiency of energy use; and

66 (iv) the usefulness of the building or facility over its lifetime;

67 (g) prepare and submit a yearly request to the governor and the Legislature for a
68 designated amount of square footage by type of space to be leased by the Division of Facilities
69 Construction and Management in that fiscal year; and

70 (h) assure the efficient use of all building space.

71 (2) In order to provide adequate information upon which the State Building Board may
72 make its recommendation under Subsection (1), any state agency requesting new full-time
73 employees for the next fiscal year shall report those anticipated requests to the building board
74 at least 90 days before the annual general session in which the request is made.

75 (3) (a) The State Building Board shall ensure that the five-year building plan required
76 by Subsection (1)(c) includes:

77 (i) a list that prioritizes construction of new buildings for all structures built or
78 contemplated based upon each agency's, department's, commission's, and institution's present
79 and future needs;

80 (ii) information, and space use data for all state-owned and leased facilities;

81 (iii) substantiating data to support the adequacy of any projected plans;

82 (iv) a summary of all statewide contingency reserve and project reserve balances as of
83 the end of the most recent fiscal year;

84 (v) a list of buildings that have completed a comprehensive facility evaluation by an
85 architect/engineer or are scheduled to have an evaluation;

86 (vi) for those buildings that have completed the evaluation, the estimated costs of
87 needed improvements; and

88 (vii) for projects recommended in the first two years of the five-year building plan:

89 (A) detailed estimates of the cost of each project;

90 (B) the estimated cost to operate and maintain the building or facility on an annual
91 basis;

92 (C) the estimated number of new agency full-time employees expected to be housed in
93 the building or facility;

94 (D) the estimated cost of new or expanded programs and personnel expected to be
95 housed in the building or facility;

96 (E) the estimated lifespan of the building with associated costs for major component
97 replacement over the life of the building; and

98 (F) the estimated cost of any required support facilities.

99 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
100 State Building Board may make rules prescribing the format for submitting the information
101 required by this Subsection (3).

102 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
103 the State Building Board may make rules establishing circumstances under which bids may be
104 modified when all bids for a construction project exceed available funds as certified by the
105 director.

106 (b) In making those rules, the State Building Board shall provide for the fair and
107 equitable treatment of bidders.

108 (5) (a) A person who violates a rule adopted by the board under Subsection (1)(e) is
109 subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any actual
110 damages, expenses, and costs related to the violation of the rule that are incurred by the state.

111 (b) The board may take any other action allowed by law.

112 (c) If any violation of a rule adopted by the board is also an offense under Title 76,
113 Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs
114 allowed under Subsection (1)(e) in addition to any criminal prosecution.

115 Section 2. Section **63A-5-215** is amended to read:

116 **63A-5-215. Disposition of proceeds received by division from sale of property.**

117 (1) ~~[The]~~ (a) Except as provided in Subsection (2), money received by the division
118 from the sale or other disposition of property shall be paid into the state treasury and becomes a
119 part of the funds provided by law for carrying out the building program of the state, and are
120 appropriated for that purpose.

121 ~~(2)~~ (b) The proceeds from sales of property belonging to or used by a particular state
 122 institution or agency shall, to the extent practicable, be expended for the construction of
 123 buildings or in the performance of other work for the benefit of that institution or agency.

124 (2) The division shall deposit money received from the disposition of significant
 125 property, as defined in Section 63A-5-402, into the General Fund unless:

126 (a) the division is required to deposit the money into another account or fund by:

127 (i) the Utah Constitution; or

128 (ii) federal law; or

129 (b) the Legislature, in an act approving the disposition, requires the division to deposit
 130 the money into another account or fund.

131 Section 3. Section **63A-5-402** is enacted to read:

132 **63A-5-402. Sale of significant property -- Definitions -- Approval process.**

133 (1) As used in this section:

134 (a) "Proposal" means a description of a proposed disposition of significant property
 135 that includes:

136 (i) a description of the significant property;

137 (ii) the appraised value of the significant property;

138 (iii) if applicable, an explanation by the board of why the significant property is
 139 historically significant;

140 (iv) an appraisal by a state-certified general appraiser, as defined in Section 61-2b-2;

141 and

142 (v) the sales price of the significant property.

143 (b) "Significant property" means property that:

144 (i) is historically significant, as determined by the board in accordance with the rule
 145 authorized by Subsection 63A-5-103(1)(e)(iii); or

146 (ii) has an appraised value of \$500,000 or more, as determined by a state-certified
 147 general appraiser, as defined in Section 61-2b-2.

148 (2) (a) Before disposing of significant property, the division shall submit the proposal:

149 (i) first, to the board for the board's approval or rejection;

150 (ii) second, if the board approves the proposal, to the governor for the governor's
 151 approval or rejection of the proposal; and

152 (iii) third, if the governor approves the proposal, to the Legislative Management
153 Committee for its review and recommendation.

154 (b) The Legislative Management Committee shall review the proposal and may:

155 (i) recommend that the division proceed with the proposal;

156 (ii) recommend that the division not proceed with the proposal; or

157 (iii) (A) recommend to the governor that the governor call a special session of the
158 Legislature to review and approve or reject the proposal; or

159 (B) recommend the Legislature review and approve or reject the proposal in an annual
160 general session.

Legislative Review Note
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Office of Legislative Research and General Counsel