

183 (2) In addition to filing a copy of recommendations for privatization with an agency  
184 head, the board shall file a copy of its recommendations for privatization with:

185 (a) the governor's office; and

186 (b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative  
187 appropriation subcommittee.

188 (3) (a) The board may appoint advisory groups to conduct studies, research, or  
189 analyses, and make reports and recommendations with respect to a matter within the  
190 jurisdiction of the board.

191 (b) At least one member of the board shall serve on each advisory group.

192 (4) (a) Subject to Subsection (4)(b), this chapter does not preclude an agency from  
193 privatizing the provision of a good or service independent of the board.

194 (b) If an agency privatizes the provision of a good or service, the agency shall include  
195 as part of the contract that privatizes the provision of the good or service that any contractor  
196 assumes all liability to provide the good or service.

197 (5) The board may review upon the request of a local entity a matter relevant to:

198 (a) (i) privatization; or

199 (ii) unfair competition with one or more private enterprises; and

200 (b) an activity or proposed activity of the local entity.

201 Section 4. Section **63I-4-401** is enacted to read:

202 **Part 4. Government Competition with Private Enterprise**

203 **63I-4-401. Title.**

204 This part is known as "Government Competition with Private Enterprise."

205 Section 5. Section **63I-4-402** is enacted to read:

206 **63I-4-402. Definitions.**

207 As used in this part:

208 (1) "Commercial activity" is as defined in Section 63I-4-102 except commercial  
209 activity does not include an activity by an institution of higher education related to technology  
210 transfer, as defined in Section 53B-16-301.

211 (2) ~~H→~~ (a) ~~←H~~ "Government entity" means:

212 ~~H→~~ [~~(a)~~] (i) ~~←H~~ the state;

213 ~~H→~~ [~~(b)~~] (ii) ~~←H~~ an entity of the state, including a branch, department, office, division,  
213a authority.

214 commission, or board;

215 ~~H~~→ [(c)] (iii) ←H an independent entity; or

216 ~~H~~→ [(d)] (iv) ←H a political subdivision.

216a ~~H~~→ (b) **"Government entity" does not mean:**

216b **(i) the School and Institutional Trust Lands Administration, established in**

216c **Section 53C-1-201; or**

216d **(ii) a laboratory established or provided by:**

216e **(A) the Department of Health, created in Section 26-1-4; or**

216f **(B) the Department of Public Safety, created in Section 53-1-103.** ←H

217 Section 6. Section ~~63I-4-403~~ is enacted to read:

218 **63I-4-403. Study required for certain commercial activity.**

219 (1) A government entity shall conduct a study, contact private enterprise, and receive  
220 an advisory opinion from the board before engaging in commercial activity or contracting with  
221 a person to engage in a commercial activity that:

222 (a) generates revenue for the government entity from a person who is not a government  
223 entity; and

224 (b) the government entity has not engaged in or contracted with a person to engage in  
225 before July 1, 2012.

226 (2) The study shall:

227 (a) identify the government entity's purposes for engaging in the commercial activity;

228 (b) identify whether the commercial activity is needed by a person who is not a  
229 government entity;

230 (c) identify each private enterprise that offers the commercial activity within the  
231 geographic area in which the government entity would engage in the commercial activity;

232 (d) evaluate the impact the commercial activity would have on a private enterprise; and

233 (e) evaluate the feasibility of cooperating with private enterprise to accomplish the  
234 purposes identified in Subsection (2)(a) without the government entity engaging in the  
235 commercial activity.

236 (3) The government entity shall contact a private enterprise identified under Subsection  
237 (2)(c) to make the evaluations required by Subsections (2)(d) and (e).

238 (4) (a) The government entity shall present the study to the board in a public meeting.

239 (b) The board shall issue an advisory opinion to the government entity that:

240 (i) (A) recommends the government entity engage in the commercial activity; or

241 (B) recommends the government entity does not engage in the commercial activity; and