

SB0072S06 compared with SB0072S05

~~text~~ shows text that was in SB0072S05 but was deleted in SB0072S06.

text shows text that was not in SB0072S05 but was inserted into SB0072S06.

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Representative Brad R. Wilson proposes the following substitute bill:

PRISON RELOCATION AND DEVELOPMENT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill addresses the relocation of the state prison, including the development of the former prison land.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the Prison Relocation and Development Authority;
- ▶ modifies the duties and responsibilities of the authority;
- ▶ establishes a process for the authority to issue a request for proposals for a new prison development project, former prison land development project, or master development project, receive and evaluate proposals, and make a recommendation to the Legislature and governor;
- ▶ provides requirements for a request for proposals and for proposals;

SB0072S06 compared with SB0072S05

- ▶ enacts a provision relating to compensation and expenses of authority members; and
- ▶ enacts a provision relating to authority members' ethics and conflicts of interest.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

63C-13-102, as enacted by Laws of Utah 2011, Chapter 408

63C-13-103, as last amended by Laws of Utah 2011, Second Special Session, Chapter 4

63C-13-105, as enacted by Laws of Utah 2011, Chapter 408

ENACTS:

63C-13-104.3, Utah Code Annotated 1953

63C-13-104.7, Utah Code Annotated 1953

63C-13-107, Utah Code Annotated 1953

63C-13-108, Utah Code Annotated 1953

REPEALS:

63C-13-104, as last amended by Laws of Utah 2011, Second Special Session, Chapter 4

Utah Code Sections Affected by Revisor Instructions:

63C-13-104.7, Utah Code Annotated 1953

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

Section 1. Section **63C-13-102** is amended to read:

63C-13-102. Definitions.

As used in this chapter:

(1) "Authority" means the Prison Relocation and Development Authority, created in Section 63C-13-103.

~~[(2) "Prison relocation project" means a project or potential project to relocate the state prison to another suitable location in the state in order to allow private development of the land on which the state prison is presently located, subject to applicable local land use and other~~

SB0072S06 compared with SB0072S05

ordinances.]

(2) "Division" means the Division of Facilities Construction and Management created in Section 63A-5-201.

(3) "Former prison" means the state prison operating as of February 1, 2013 in Salt Lake County.

(4) "Former prison land" means all the land owned or controlled by the state on which the former prison is located or that is contiguous to and surrounding the former prison, including land owned by the Utah Department of Transportation but not used by the Utah Department of Transportation for a right-of-way.

(5) "Former prison land development project" means a project to develop the former prison land, including:

(a) the transfer of the former prison land into private ownership; and

(b) the demolition of the former prison after it is vacated.

(6) "Master development project" means a former prison land development project and a new prison development project.

(7) "New prison" means a prison to be built to replace the former prison.

(8) "New prison development project":

(a) means a project to construct a new prison at a suitable location in the state other than the location of the former prison; and

(b) includes the land on which the new prison will be built.

(9) "New prison land" means land on which a new prison is or is projected to be built.

(10) "Prison programming" means a policy, plan, or program that is calculated to reduce recidivism or lead to greater efficiencies or lower costs in prison operations.

Section 2. Section **63C-13-103** is amended to read:

63C-13-103. Creation of Prison Relocation and Development Authority --

Members.

(1) There is created a prison relocation and development authority.

(2) (a) The authority consists of 11 members.

(b) [~~Two members~~] One member of the authority shall be appointed by the legislative body of the municipality in [~~whose boundary {} which~~] the ~~{ former } prison~~ ~~{ } property~~ ~~{ } is presently located~~ which the former prison is located.

SB0072S06 compared with SB0072S05

(c) [~~Four~~] Six members of the authority shall be appointed by the governor.

~~[(d) One member shall be appointed by the Utah Association of Counties.]~~

~~[(e) (d) Two members shall be members of the Senate appointed by the president of the Senate.~~

~~[(f) (e) Two members shall be members of the House of Representatives appointed by the speaker of the House of Representatives.~~

(3) Any vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(4) Each member of the authority shall serve until a successor is duly appointed and qualified.

(5) A member may not receive compensation for service on the authority.

(6) A majority of members present at a meeting constitutes a quorum.

(7) An authority member appointed before the effective date of this section may not continue to serve on the authority unless the member is reappointed on or after the effective date of this section as provided in Subsection (2).

Section 3. Section **63C-13-104.3** is enacted to read:

63C-13-104.3. Authority duties and responsibilities.

(1) The authority shall:

(a) consult with the division in formulating a request for proposals under Subsection

(1)(b):

(b) with the approval of the director of the division ~~and the written approval of the governor, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code,~~ issue a request for proposals inviting persons to submit proposals on a new prison development project, former prison land development project, or master development project;

(c) provide a process for persons to submit proposals and for the authority to receive proposals;

(d) evaluate the proposals that are submitted;

(e) in evaluating and making a decision on proposals, give additional weight to a proposal that contemplates using contractors, material providers, and laborers from within the state;

(f) decide whether to recommend that one of the proposals or a combination of

SB0072S06 compared with SB0072S05

proposals for a new prison development project, former prison land development project, or master development project be accepted and that a contract be awarded to the person or persons who submitted the proposal or combination of proposals; and

(g) if the authority decides to recommend a proposal or combination of proposals for awarding a contract for a new prison development project, former prison land development project, or master development project to the person or persons who submitted the proposal or combination of proposals, ~~immediately~~ submit its written recommendation to the governor and the Legislative Management Committee.

(2) The authority may appoint one or more subcommittees of its members to act on matters within the authority's duties and responsibilities, but any action of a subcommittee is subject to the authority's approval.

Section 4. Section **63C-13-104.7** is enacted to read:

63C-13-104.7. Request for proposals process.

(1) The authority shall hold its first meeting to initiate the process of formulating a request for proposals no later than:

(a) April 15, 2013, if this section takes effect on or before March 25, 2013; or

(b) June 15, 2013, if this section takes effect after March 25, 2013.

(2) (a) In a request for proposals under Subsection 63C-13-104.3(1)(b), the authority shall request offerors to include a proposed conceptual plan.

(b) A conceptual plan included in a proposal may incorporate some or all of the features of a general plan described in Title 10, Chapter 9a, Part 4, General Plan.

(c) A proposed conceptual plan included in a proposal submitted under this part is a public record.

(3) (a) A request for proposals for a new prison development project:

(i) may include a request for prison programming proposals; and

(ii) shall allow an offeror to include, as part of the proposal, the operation of the new prison.

(b) A person submitting a proposal for a new prison development project may include, as part of the proposal:

(i) prison programming proposals; ~~or~~

(ii) the operation of a new prison ~~;~~ or

SB0072S06 compared with SB0072S05

(iii) prison programming proposals and the operation of a new prison.

(4) A proposal submitted in response to a request for proposals under Subsection 63C-13-104.3(1)(b) shall identify and quantify sources of funds that the proposal relies on for its financial feasibility, including identifying and quantifying which of the following possible sources of funds the proposal relies on:

(a) money derived from the sale of the former prison land;

(b) savings realized from funds that had been intended for maintenance and upkeep of the former prison but that will not be spent on the former prison due to the construction of a new prison;

(c) the amount of future construction costs anticipated to be spent for prison facilities but that will not be spent due to the construction of a new prison;

(d) reductions in future years' budgets of the Department of Corrections that equal the savings realized due to greater efficiencies in the operation of a new prison over the anticipated cost of operating the former prison;

(e) proceeds from the issuance of bonds;

(f) legislative appropriations;

(g) financing provided by the developer; and

(h) any other source of funds that the offeror proposes to be made available in order to implement the new prison development project, former prison land development project, or master development project.

(5) (a) In issuing a request for proposals under Subsection 63C-13-104.3(1)(b), the authority shall request persons submitting proposals to:

(i) specify and quantify which sources of funds the proposal relies on for its financial feasibility;

(ii) identify any changes in state law the offeror recommends be made in order to facilitate the implementation of the new prison development project, former prison land development project, or master development project; and

(iii) comply with all other requirements of the request for proposals.

(b) Recommended changes to state law that a proposal identifies under Subsection (5)(a)(ii) are for informational purposes only, and the authority may not give more or less weight to a proposal based on any recommended changes it contains or does not contain.

SB0072S06 compared with SB0072S05

(6) A contract may not be awarded for a new prison development project, former prison land development project, or master development project unless the governor and Legislature indicate their approval, through the adoption of a concurrent resolution or other legislation indicating approval, of the feasibility, overall cost, cost-effectiveness, and concepts involved in the new prison development project, former prison land development project, or master development project, as set forth in the recommended proposal or combination of proposals.

~~{ (7) (a) Subject to Subsection (7)(b), the provisions of Title 63G, Chapter 6a, Utah Procurement Code, do not apply with respect to the process described in this section.~~

~~— (b) The authority shall adopt procurement rules substantially similar to the requirements of Title 63G, Chapter 6a, Utah Procurement Code, to govern the process described in this section.~~

~~‡ (8) (7) The former prison land may not be sold, exchanged, leased, or made subject to an option without the prior approval of the Legislature and governor.~~

Section 5. Section **63C-13-105** is amended to read:

63C-13-105. Authority staff and expenses.

(1) The Governor's Office of Planning and Budget shall:

~~(1) (a) provide any necessary staff support for the authority until the authority hires its own staff; and~~

~~(2) (b) cover authority expenses.~~

~~(2) The authority may hire employees, including contract employees and a chief administrative officer.~~

Section 6. Section **63C-13-107** is enacted to read:

63C-13-107. Compensation and expenses of authority members.

(1) Salaries and expenses of ~~{board}~~authority members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.

(2) ~~{A board}~~An authority member who is not a legislator may not receive compensation or benefits for the member's service on the ~~{board}~~authority, but may receive per diem and reimbursement for travel expenses incurred as ~~{a board}~~an authority member at the

SB0072S06 compared with SB0072S05

rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section **63C-13-108** is enacted to read:

63C-13-108. Authority member ethics and conflicts of interest.

(1) An authority member is subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) An individual may not be appointed to ~~for serve on~~ the authority if the individual:

(a) has an ownership interest in or is an officer or employee of an entity that:

(i) anticipates submitting a proposal or submits a proposal for a new prison development project, former prison land development project, or master development project;
or

(ii) anticipates providing material or labor under a contract awarded pursuant to a proposal for a new prison development project, former prison land development project, or master development project;

(b) has a spouse, child, parent, or sibling who has an ownership interest in or is an officer or employee of an entity described in Subsection (2)(a); or

(c) has a direct or indirect interest in or derives or will derive any direct or indirect financial benefit from any work done in pursuit of a new prison development project, former prison land development project, or master development project.

(3) An authority member may not accept a gift, gratuity, emolument, or employment from any person that has a direct or indirect interest in or will derive any direct or indirect financial benefit from any work performed as part of a new prison development project, former prison land development project, or master development project.

(4) An authority member may not continue to serve on the authority and shall resign the member's position on the authority if a circumstance described in Subsection (2) occurs or is discovered after the member's appointment that, had it occurred or been discovered before appointment, would have prohibited the member from being appointed to the authority.

Section 8. **Repealer.**

This bill repeals:

SB0072S06 compared with SB0072S05

Section **63C-13-104, Authority duties.**

Section 9. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 10. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication~~§~~:

(1) revise Subsection 63C-13-104.7(1) to read:

(~~§~~a) if the actual effective date of this bill is March 25, 2013 or earlier, "(1) The authority shall hold its first meeting to initiate the process of formulating a request for proposals no later than April 15, 2013."; or

(~~§~~b) if the actual effective date of this bill is after March 25, 2013, "(1) The authority shall hold its first meeting to initiate the process of formulating a request for proposals no later than June 15, 2013."~~§~~; and

(2) replace the language in Subsection 63C-13-103(7), "the effective date of this section," with the bill's actual effective date.