

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;

▶ 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.



26 This bill provides revisor instructions.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63C-13-102**, as enacted by Laws of Utah 2011, Chapter 408

30 **63C-13-103**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 4

31 **63C-13-105**, as enacted by Laws of Utah 2011, Chapter 408

32 ENACTS:

33 **63C-13-104.3**, Utah Code Annotated 1953

34 **63C-13-104.7**, Utah Code Annotated 1953

35 **63C-13-107**, Utah Code Annotated 1953

36 **63C-13-108**, Utah Code Annotated 1953

37 REPEALS:

38 **63C-13-104**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 4

39 **Utah Code Sections Affected by Revisor Instructions:**

40 **63C-13-104.7**, Utah Code Annotated 1953



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

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

44 **63C-13-102. Definitions.**

45 As used in this chapter:

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

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

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

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

56 (4) "Former prison land" means all the land owned or controlled by the state on which

57 the former prison is located or that is contiguous to and surrounding the former prison,
 58 including land owned by the Utah Department of Transportation but not used by the Utah
 59 Department of Transportation for a right-of-way.

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

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

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

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

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

67 (8) "New prison development project":

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

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

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

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

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

75 **63C-13-103. Creation of Prison Relocation and Development Authority --**

76 **Members.**

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

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

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

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

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

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

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

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

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

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

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

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

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

98 **63C-13-104.3. Authority duties and responsibilities.**

99 (1) The authority shall:

100 (a) consult with the division in formulating a request for proposals under Subsection
101 (1)(b);

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

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

108 (d) hold at least one public hearing in the municipality within which the former prison
109 is located to receive public comment on proposals on a former prison land development
110 project;

111 (e) hold at least one public hearing in each location where a new prison is proposed to
112 be located under proposals on a new prison development project;

113 (f) evaluate the proposals that are submitted;

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

117 (h) decide whether to recommend that one of the proposals or a combination of
118 proposals for a new prison development project, former prison land development project, or

119 master development project be accepted and that a contract be awarded to the person or persons
120 who submitted the proposal or combination of proposals; and

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

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

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

130 **63C-13-104.7. Request for proposals process.**

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

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

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

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

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

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

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

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

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

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

147 (i) prison programming proposals;

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

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

150 (4) A proposal submitted in response to a request for proposals under Subsection
151 63C-13-104.3(1)(b) shall identify and quantify sources of funds that the proposal relies on for
152 its financial feasibility, including identifying and quantifying which of the following possible
153 sources of funds the proposal relies on:

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

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

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

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

163 (e) proceeds from the issuance of bonds;

164 (f) legislative appropriations;

165 (g) financing provided by the developer; and

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

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

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

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

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

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

180 (6) A contract may not be awarded for a new prison development project, former

181 prison land development project, or master development project unless the governor and
182 Legislature indicate their approval, through the adoption of a concurrent resolution or other
183 legislation indicating approval, of the feasibility, overall cost, cost-effectiveness, and concepts
184 involved in the new prison development project, former prison land development project, or
185 master development project, as set forth in the recommended proposal or combination of
186 proposals.

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

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

190 **63C-13-105. Authority staff and expenses.**

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

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

194 [~~(2)~~] (b) cover authority expenses.

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

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

198 **63C-13-107. Compensation and expenses of authority members.**

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

203 (2) An authority member who is not a legislator may not receive compensation or
204 benefits for the member's service on the authority, but may receive per diem and
205 reimbursement for travel expenses incurred as an authority member at the rates established by
206 the Division of Finance under:

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

208 (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
209 63A-3-107.

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

211 **63C-13-108. Authority member ethics and conflicts of interest.**

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

214 (2) An individual may not be appointed to the authority if the individual:

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

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

218 or

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

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

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

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

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

235 **Section 8. Repealer.**

236 This bill repeals:

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

238 **Section 9. Effective date.**

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

243 Section 10. **Revisor instructions.**

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

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

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

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

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