

Effective 5/12/2020

Part 11
Miscellaneous Provisions

63A-5b-1101 Gifts, grants, and donations.

- (1)
 - (a) The state or the division may receive a gift, grant, or donation to further the purposes of this part.
 - (b) A gift, grant, or donation described in Subsection (1)(a) may not revert to the General Fund.
- (2)
 - (a) This Subsection (2) applies if:
 - (i) a donor donates land to an institution of higher education and commits to construct a building or buildings on the land; and
 - (ii) the institution of higher education:
 - (A) agrees to provide funds for the operation and maintenance costs of the building or buildings from sources other than state funds; and
 - (B) agrees that the building or buildings will not be eligible for state capital improvement funding.
 - (b) Notwithstanding any other provision of this chapter, an institution of higher education that receives a donation described in Subsection (2)(a) may:
 - (i) oversee and manage a construction project on the donated land without involvement, oversight, or management from the division; or
 - (ii) arrange for oversight and management of the construction project by the division.
 - (c) The role of compliance agency on a construction project on the donated land shall be provided by:
 - (i) the institution of higher education, for a construction project that the institution of higher education oversees and manages under Subsection (2)(b); or
 - (ii) the director, for a construction project that the division oversees and manages under Subsection (2)(b)(ii).

Enacted by Chapter 152, 2020 General Session

63A-5b-1102 Memorials by the state or state agencies.

- (1) As used in this section:
 - (a) "Authorizing agency" means an agency that holds title to state land.
 - (b) "Authorizing agency" does not mean a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
- (2) The Legislature, the governor, or an authorizing agency may authorize the use or donation of state land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate individuals who have:
 - (a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or
 - (b) given their lives in association with public service on behalf of the state, including firefighters, peace officers, highway patrol officers, or other public servants.
- (3) The use or donation of state land in relation to a memorial described in Subsection (2) may include:

- (a) using or appropriating public funds for the purchase, development, improvement, or maintenance of state land on which a memorial is located or established;
 - (b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;
 - (c) donating or selling state land for use in relation to a memorial; or
 - (d) authorizing the use of state land for a memorial that is funded or maintained in part or in full by another public or private entity.
- (4) The Legislature, the governor, or an authorizing agency may specify the form, placement, and design of a memorial that is subject to this section if the Legislature, the governor, or the authorizing agency holds title to, has authority over, or donates the land on which a memorial is established.
- (5) A memorial within the definition of a capital development project, as defined in Section 63A-5b-401, is required to be approved as provided for in Section 63A-5b-402.
- (6) Nothing in this section may be construed as a prohibition of a memorial, including a memorial for a purpose not covered by this section, that:
- (a) is erected within the approval requirements in effect at the time of the memorial's erection; or
 - (b) may be duly authorized through other legal means.

Amended by Chapter 16, 2023 General Session

63A-5b-1103 Making keys to buildings of state, political subdivisions, or colleges and universities without permission prohibited.

- (1) As used in this section:
- (a) "Applicable government entity" means a state agency, a political subdivision of the state, the Utah Board of Higher Education, or any college or university supported in whole or in part by the state.
 - (b) "Government facility" means a building, laboratory, facility, room, dormitory, hall, or other structure owned, licensed as a licensee, leased as a tenant, or lawfully occupied by an applicable government entity.
- (2) An individual may not knowingly make or cause to be made any key or duplicate key for a government facility without the prior written consent of the applicable government entity.
- (3) A person who violates this section is guilty of a class B misdemeanor.

Enacted by Chapter 152, 2020 General Session

63A-5b-1104 Notification to local governments for construction or modification of certain facilities.

- (1)
- (a) The director or the director's designee shall notify in writing the elected representatives of a local government entity directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding \$500,000, if:
 - (i) the nature of the project has been significantly altered since an earlier notification;
 - (ii) the project would significantly change the nature of the functions presently conducted at the location; or
 - (iii) the project is new construction.
 - (b) At the request of the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss the issues described in Subsection (1)(a).

- (2)
 - (a)
 - (i) Before beginning the construction of student housing on property owned by the state or an institution of higher education, the director shall provide written notice of the proposed construction, as provided in Subsection (2)(a)(ii), if any of the proposed student housing buildings is within 300 feet of privately owned residential property.
 - (ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and, if applicable, the mayor of:
 - (A) the county in whose unincorporated area the privately owned residential property is located; or
 - (B) the municipality in whose boundary the privately owned residential property is located.
 - (b)
 - (i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a county or municipality entitled to the notice may submit a written request to the director for a public hearing on the proposed student housing construction.
 - (ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the director and the county or municipality shall jointly hold a public hearing to provide information to the public and to allow the director and the county or municipality to receive input from the public about the proposed student housing construction.

Amended by Chapter 421, 2022 General Session

63A-5b-1105 Testing and inspection firm requirements.

The director shall ensure that any person performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on a public building under the director's supervision:

- (1) fully complies with the American Society for Testing Materials standard specifications for an agency engaged in the testing and inspection of materials known as ASTM E-329; and
- (2) carries a minimum of \$1,000,000 of errors and omissions insurance.

Enacted by Chapter 152, 2020 General Session

63A-5b-1106 Critical land near state prison -- Definitions -- Preservation as open land -- Management and use of land -- Restrictions on transfer -- Wetlands development -- Conservation easement.

- (1) For purposes of this section:
 - (a) "Corrections" means the Department of Corrections created under Section 64-13-2.
 - (b) "Critical land" means:
 - (i) a parcel of approximately 250 acres of land owned by the division and located on the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the Denver and Rio Grande Western Railroad right-of-way; and
 - (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part of the transaction.
 - (c)
 - (i) "Open land" means land that is:

- (A) preserved in or restored to a predominantly natural, open, and undeveloped condition;
and
- (B) used for:
 - (I) wildlife habitat;
 - (II) cultural or recreational use;
 - (III) watershed protection; or
 - (IV) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.
- (ii)
 - (A) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.
 - (B) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:
 - (I) enhance the natural, scenic, or aesthetic qualities of the land; or
 - (II) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.
- (2)
 - (a)
 - (i) The critical land shall be preserved in perpetuity as open land.
 - (ii) The long-term ownership and management of the critical land should eventually be turned over to the Department of Natural Resources created under Section 79-2-201 or another agency or entity that is able to accomplish the purposes and intent of this section.
 - (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions should be taken on or with respect to the critical land, including:
 - (i) the development and implementation of a program to eliminate noxious vegetation and restore and facilitate the return of natural vegetation on the critical land;
 - (ii) the development of a system of trails through the critical land that is compatible with the preservation of the critical land as open land;
 - (iii) the development and implementation of a program to restore the natural features of and improve the flows of the Jordan River as it crosses the critical land;
 - (iv) the preservation of the archeological site discovered on the critical land and the development of an interpretive site in connection with the archeological discovery;
 - (v) in restoring features on the critical land, the adoption of methods and plans that will enhance the critical land's function as a wildlife habitat;
 - (vi) taking measures to reduce safety risks on the critical land; and
 - (vii) the elimination or rehabilitation of a prison dump site on the critical land.
- (3)
 - (a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the critical land that is transferred will be preserved as open land in perpetuity.
 - (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to resolve boundary disputes with adjacent property owners and easements may be granted for trails and other purposes consistent with Subsection (2)(b) and with the preservation of the critical land as open land.
 - (c) The Department of Natural Resources may transfer title to a portion of the critical land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

- (i) the parcel being acquired is:
 - (A) open land; and
 - (B) located within one mile of the portion of critical land being transferred; and
 - (ii) the purpose of the exchange is to facilitate the development of a commuter rail transit station and associated transit oriented development.
- (4) The division shall use the funds remaining from the appropriation under Laws of Utah 1998, Chapter 399, for the purposes of:
- (a) determining the boundaries and legal description of the critical land;
 - (b) determining the boundaries and legal description of the adjacent property owned by the division;
 - (c) fencing the critical land and adjacent land owned by the division where appropriate and needed; and
 - (d) assisting to carry out the intent of this section.
- (5)
- (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the critical land may develop or allow a public agency or private entity to develop more wetlands on the critical land than exist naturally or existed previously.
 - (b)
 - (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to provide for the development and management of wetlands and designated wetland buffer areas.
 - (ii) Before transferring jurisdiction of any part of the critical land under Subsection (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain approval from the appropriate federal agency to allow mitigation credits in connection with the critical land to be used for impacts occurring anywhere along the Wasatch Front.
- (6) Notwithstanding any other provision of this section, corrections shall have access to the cooling pond located on the critical land as long as that access to and use of the cooling pond are not inconsistent with the preservation of the critical land as open land.
- (7) Corrections, the division, and all other state departments, divisions, or agencies shall cooperate together to carry out the intent of this section.
- (8) In order to ensure that the land referred to in this section is preserved as open land, the division shall, as soon as practicable, place the land under a perpetual conservation easement in favor of an independent party such as a reputable land conservation organization or a state or local government agency with experience in conservation easements.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-1108 Water conservation and state government facilities.

- (1) As used in this section:
- (a) "Division" means the Division of Water Resources.
 - (b) "Grounds" means the real property, whether fenced or unfenced, of the parcel of land on which is located a state government facility, including a public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the property.
 - (c)
 - (i) Except as provided in Subsection (1)(c)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.
 - (ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

- (d) "Reconstructed" means that a building is subject to construction that affects the exterior of the building or the building's grounds.
- (e)
 - (i) "State agency" means a department, division, office, entity, agency, or other unit of state government.
 - (ii) "State agency" includes an institution of higher education.
- (f)
 - (i) "State government facility" means a building, structure, or other improvement that is constructed on property owned by the state, the state's departments, commissions, institutions, or other state agency.
 - (ii) "State government facility" does not include:
 - (A) an unoccupied structure that is a component of the state highway system;
 - (B) a privately owned structure that is located on property owned by the state, the state's department, commission, institution, or other state agency; or
 - (C) a structure that is located on land administered by the trust lands administration under a lease, permit, or contract with the trust lands administration.
- (2)
 - (a) Unless exempted under Subsection (2)(b), a state agency that owns or occupies a state government facility that is built or reconstructed on or after May 4, 2022, may not have more than 20% of the grounds of the state government facility be lawn or turf.
 - (b) The division may exempt a state government facility from the restrictions of Subsection (2)
 - (a) if the division determines that the purposes of a state agency that occupies the state government facility requires additional lawn or turf.
- (3)
 - (a) A state agency shall reduce the state agency's outdoor water use as compared to the state agency's outdoor water use for fiscal year 2020:
 - (i) in an amount equal to or greater than 5% by the end of fiscal year 2023; and
 - (ii) in an amount equal to or greater than 25% by the end of fiscal year 2026.
 - (b) A state agency shall submit the following information to the division:
 - (i) by no later than October 1, 2022:
 - (A) the state agency's water use for fiscal year 2020; and
 - (B) the state agency's water use for fiscal year 2022;
 - (ii) by no later than October 1, 2023, the state agency's water use for fiscal year 2023; and
 - (iii) by no later than October 1, 2026, the state agency's water use for fiscal year 2026.
 - (c) The division shall:
 - (i) post the information provided to the division under this Subsection (3) on a public website; and
 - (ii) by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a uniform measure for purposes of this section of a state agency's water use.
- (4) Except when allowed by the division, a state agency may not water landscapes at a state government facility between the hours of 10 a.m. and 6 p.m.
- (5) A state agency shall do the following at a state government facility:
 - (a) follow weekly lawn watering guides if issued by the division;
 - (b) manually shut off systems during rain and wind events if the landscape irrigation system does not have rain and wind shutoff functions;
 - (c) implement a leak-detection and repair program for outdoor use;
 - (d) coordinate with the division to implement water efficient methods, technologies, and practices; and

- (e) at least annually:
 - (i) evaluate opportunities to update irrigation technology with devices that:
 - (A) meet national recognized standards for efficiency;
 - (B) include rain and wind shutoff functions; and
 - (C) include soil moisture sensors;
 - (ii) evaluate opportunities to:
 - (A) subject to Subsection (2), limit lawn or turf on the grounds of a state government facility and replace lawn or turf with water-wise plants; and
 - (B) update facility-management technology to include metering for water-consuming processes related to irrigation and mechanical systems; and
 - (iii) audit and repair a landscape irrigation system so that the landscape irrigation system is operating at maximum acceptable efficiency.

Enacted by Chapter 50, 2022 General Session

63A-5b-1109 Buildings and facilities to which chapter applies -- Standards available to interested parties -- Division of Facilities Construction and Management staff to advise, review, and approve plans when possible.

- (1)
 - (a) The standards in this section apply to all buildings and facilities used by the public that are constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.
 - (b) All of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this section except buildings, facilities, or portions of them, not intended for public use, including:
 - (i) caretaker dwellings;
 - (ii) service buildings; and
 - (iii) heating plants.
- (2) This section applies to temporary or emergency construction as well as permanent buildings.
- (3)
 - (a) The standards established in this section apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this section where the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for persons with a physical disability.
 - (b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.
 - (c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards.
- (4)
 - (a) All individuals and organizations are encouraged to apply the standards prescribed in this section to all buildings used by the public, but that are financed from other than public funds.
 - (b) The Division of Facilities Construction and Management shall:
 - (i) make the standards established by this section available to interested individuals and organizations; and
 - (ii) upon request and to the extent possible, make available the services of the Division of Facilities Construction and Management staff to advise, review, and approve plans and specifications in order to comply with the standards of this section.
- (5)

- (a) This section is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of incoordination, and aging.
- (b) This section is intended to make all buildings and facilities covered by this section accessible to, and functional for, persons with a physical disability.
- (6) The standards of this section are the current edition of planning and design criteria to prevent architectural barriers for the aged and persons with a physical disability, as promulgated by the Division of Facilities Construction and Management.
- (7) The responsibility for adoption of the planning and design criteria referred to in this section, and enforcement of this section shall be as follows:
 - (a) where state school funds are utilized, the State Board of Education;
 - (b) where state funds are utilized, the Division of Facilities Construction and Management; and
 - (c) where funds of political subdivisions are utilized, the governing board of the county or municipality in which the building or facility is located.

Renumbered and Amended by Chapter 329, 2023 General Session