

1 **PRIVATIZATION OF QUASI -**
2 **GOVERNMENTAL ENTITIES**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gerry A. Adair**

6 AN ACT RELATING TO STATE AFFAIRS; ADDRESSING PRIVATIZATION OF
7 QUASI-GOVERNMENTAL ENTITIES; PROHIBITING BENEFITS FROM
8 PRIVATIZATION TO CERTAIN PERSONS; AND PROVIDING PENALTIES.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 ENACTS:

11 **63-95-101**, Utah Code Annotated 1953

12 **63-95-102**, Utah Code Annotated 1953

13 **63-95-103**, Utah Code Annotated 1953

14 **63-95-104**, Utah Code Annotated 1953

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

16 Section 1. Section **63-95-101** is enacted to read:

17 **CHAPTER 95. PRIVATIZATION OF QUASI-GOVERNMENTAL ENTITIES**

18 **Part 1. General Provisions**

19 **63-95-101. Title.**

20 This chapter shall be known as the "Privatization of Quasi-Governmental Entities Act."

21 Section 2. Section **63-95-102** is enacted to read:

22 **63-95-102. Definitions.**

23 For purposes of this chapter:

24 (1) "Asset" means property of all kind, real and personal, tangible and intangible, and
25 includes:

26 (a) cash;

27 (b) stock or other investments;

1 (c) goodwill;

2 (d) real property;

3 (e) an ownership interest;

4 (f) a license; and

5 (g) a cause of action.

6 (2) "Authorizing statutes" means the statutes creating an entity as a quasi-governmental
7 entity.

8 (3) "Business interest" means:

9 (a) holding the position of trustee, director, officer, or other similar position with a
10 business entity; or

11 (b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of
12 a corporation or 10% interest in any other business entity, being held by:

13 (i) an individual;

14 (ii) the individual's spouse;

15 (iii) a minor child of the individual; or

16 (iv) any combination of Subsection (3)(b)(i) through (iii).

17 (4) "Interested party" means a person holding the position of trustee, director, officer, or
18 other similar position with a quasi-governmental entity.

19 (5) "Lobbyist" is as defined in Section 36-11-102.

20 (6) "Privatized" means the repeal of the authorizing statute of a quasi-governmental entity
21 and the revision to state laws to:

22 (a) terminate the relationship between the state and the quasi-governmental entity; and

23 (b) provide for the operation of a successor to the quasi-governmental entity:

24 (i) that is unaffiliated to the state; and

25 (ii) receives any asset of the quasi-governmental entity.

26 (7) "Quasi-governmental entity" means the:

27 (a) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

28 (b) Utah Technology Finance Corporation created in Title 9, Chapter 2, Part 7, Utah
29 Technology Finance Corporation Act;

30 (c) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley
31 Historic Railroad Authority;

1 (d) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science
2 Center Authority;

3 (e) Utah Housing Finance Agency created in Title 9, Chapter 4, Part 9, Utah Housing
4 Finance Agency;

5 (f) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
6 Corporation Act;

7 (g) Workers' Compensation Fund of Utah created in Title 31A, Chapter 33, Workers'
8 Compensation Fund of Utah;

9 (h) Utah State Retirement Office created in Title 49, Chapter 1, Part 2, Retirement Office
10 and Board;

11 (i) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1,
12 Part 2, School and Institutional Trust Lands Administration;

13 (j) Crime Victims Reparations Office created in Title 63, Chapter 25a, Part 4, Crime
14 Victims' Reparations Act; and

15 (k) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
16 Communications Agency Network Act.

17 Section 3. Section **63-95-103** is enacted to read:

18 **63-95-103. Benefits to interested parties of a quasi-governmental entity.**

19 (1) If a quasi-governmental entity is privatized, the following may not receive any benefit
20 prohibited under Subsection (2):

21 (a) an interested party of the quasi-governmental entity;

22 (b) an entity in which an interested party holds a business interest;

23 (c) a lobbyist of the quasi-governmental entity; or

24 (d) an entity in which a lobbyist of the quasi-governmental entity holds a business interest.

25 (2) If a quasi-governmental entity is privatized:

26 (a) a person described in Subsection (1)(a) or (b) may not receive:

27 (i) except as provided in Subsection (3), compensation from a quasi-governmental entity
28 that is conditioned in whole or in part on:

29 (A) the passage, defeat, or amendment of legislative action related to privatization; or

30 (B) the approval, modification, or denial of an executive action related to privatization;

31 or

1 (ii) any asset of the quasi-governmental entity or its successor as a result of or as part of
2 the process of privatization; and

3 (b) a person described in Subsection (1)(c) or (d) may not receive any:

4 (i) compensation that if received by the lobbyist would be in violation of Section
5 36-11-301; or

6 (ii) asset of the quasi-governmental entity or its successor as a result of or as part of the
7 process of privatization.

8 (3) Notwithstanding Subsection (2)(a)(i), a person described in Subsection (1)(a) can
9 receive the contingent compensation described in Subsection (2)(a)(i), if the person discloses the
10 contingent compensation agreement to each legislator or executive branch employee or officer that
11 is contacted by the person regarding privatization.

12 Section 4. Section **63-95-104** is enacted to read:

13 **63-95-104. Penalties for violation.**

14 (1) A person who knowingly violates this chapter:

15 (a) is guilty of a class A misdemeanor if the combined value of any compensation or assets
16 received by the person as a result of the violation is equal to or greater than \$10,000; or

17 (b) is guilty of a class B misdemeanor if the combined value of any compensation or assets
18 received by the person as a result of the violation is less than \$10,000.

19 (2) Notwithstanding Subsection 36-11-401(3)(a), if a lobbyist violates Subsection
20 63-95-103(2)(b)(i), the lobbyist is guilty of a class A misdemeanor if the combined value of any
21 compensation or assets received by the lobbyist as a result of a violation of this chapter is equal
22 to or greater than \$10,000.

Legislative Review Note
as of 1-30-98 10:08 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel