

DONATION OF BUILDINGS TO UNIVERSITIES

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

AN ACT RELATING TO HIGHER EDUCATION; GRANTING CONDITIONAL AUTHORITY TO THE BOARD OF REGENTS TO ACCEPT BUILDINGS DONATED TO HIGHER EDUCATION INSTITUTIONS WITHOUT OBTAINING APPROVAL FROM THE DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

53B-20-103, as enacted by Chapter 167, Laws of Utah 1987

63-56-23, as enacted by Chapter 75, Laws of Utah 1980

63A-5-204, as last amended by Chapter 3, Laws of Utah 1997

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

Section 1. Section **53B-20-103** is amended to read:

53B-20-103. Powers of state board -- Capital facilities projects -- Exceptions.

(1) As used in this section, "capital facilities projects and buildings" includes any one or more institutional projects and buildings.

[The] (2) The board, on behalf of the institutions of higher education, may [do the following]:

[~~(1)~~] (a) acquire, purchase, construct, improve, remodel, add to, and extend capital facilities projects and buildings including necessary and related utilities;

(b) accept buildings, land, or a combination of buildings and land, donated to an eligible higher education institution without obtaining approval of the donation from the director of the Division of Facilities Construction and Management;

[~~(2)~~] (c) acquire necessary and suitable equipment, furnishings, and land for institutional projects and buildings;

[~~(3)~~] (d) set aside portions of campuses for institutional projects and buildings;

[(4)] (e) maintain and operate institutional projects and buildings; and

[(5)] (f) impose and collect rents, fees, and charges for the use of institutional projects and buildings.

(3) Notwithstanding any other provision of law, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:

(a) oversee and manage the construction without involvement, oversight, or management from the Division of Facilities Construction and Management; or

(b) arrange for management of the project by the Division of Facilities Construction and Management.

~~["Projects" and "buildings" include any one or more of such facilities.]~~

Section 2. Section **63-56-23** is amended to read:

63-56-23. Circumstances justifying award of contract without competition.

A contract may be awarded for a supply, service, or construction item without competition when, under rules and regulations, the chief procurement officer, the head of a purchasing agency, or a designee of either officer above the level of procurement officer determines in writing that:

(1) there is only one source for the required supply, service, or construction item; or

(2) the award to a specific supplier, service provider, or contractor is a condition of a donation that will fund the full cost of the supply, service, or construction item.

Section 3. Section **63A-5-204** is amended to read:

63A-5-204. Specific powers and duties of director.

(1) The director shall:

(a) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;

(b) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments,

commissions, institutions, and agencies in the capitol, the state office building, and all other buildings or space owned, leased, or rented by or to the state, except as otherwise provided by law;

(c) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;

(d) acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

(e) recommend to the executive director rules to govern traffic flow and vehicle parking on roadways and parking lots which surround the capitol and that are a part of Utah State Highway 293;

(f) adopt and use a common seal, of a form and design determined by the director, and of which courts shall take judicial notice;

(g) file a description and impression of the seal with the Division of Archives;

(h) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or interest in property belonging to the state or any of its departments, except institutions of higher education and the School and Institutional Trust Lands Administration;

(i) report all properties acquired by the state, except those acquired by institutions of higher education, to the director of the Division of Finance for inclusion in the state's financial records; and

(j) take all other action necessary for carrying out the purposes of this chapter.

(2) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any department, commission, institution, or agency, except state institutions of higher education.

(b) The director may choose to delegate responsibility for these functions only when the director determines that:

(i) the department or agency has requested the responsibility;

(ii) the department or agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and

(iii) the delegation would result in net cost savings to the state as a whole.

(c) State institutions of higher education are exempt from Division of Facilities Construction

and Management oversight.

(d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.

(e) Agencies and institutions that are exempt from division oversight shall annually report their compliance with the facility maintenance standards to the division in the format required by the division.

(f) The division shall:

(i) prescribe a standard format for reporting compliance with the facility maintenance standards;

(ii) report agency and institution compliance or noncompliance with the standards to the Legislature; and

(iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.

(3) (a) In making any allocations of space under Subsection (1), the director shall:

(i) conduct studies to determine the actual needs of each department, commission, institution, or agency; and

(ii) comply with the restrictions contained in Subsection (3).

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.

(d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.

(4) The director may:

(a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;

(b) sue and be sued in the name of the division; and

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature

through an appropriations act or other specific legislation, whatever real or personal property that is necessary for the discharge of the director's duties.

(5) Notwithstanding the provisions of Subsection (1)(d), the following entities may hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes other than administration that are under their control and management:

- (a) the Office of Trust Administrator;
- (b) the Department of Transportation;
- (c) the Division of Forestry, Fire and State Lands;
- (d) the Department of Natural Resources;
- (e) the Utah National Guard;
- (f) any area vocational center or other institution administered by the State Board of Education; and
- (g) any institution of higher education.

(6) Notwithstanding any other provision in this part, the Board of Regents may accept buildings, land, or a combination of buildings and land, donated to an eligible higher education institution without obtaining approval of the donation from the director of the Division of Facilities Construction and Management.

(7) Notwithstanding any other provision of this section, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:

- (a) oversee and manage the construction without involvement, oversight, or management from the Division of Facilities Construction and Management; or
- (b) arrange for management of the project by the Division of Facilities Construction and Management.

[~~(6)~~] (8) Notwithstanding Subsections (1)(c) and (d), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held

by it that are under its control.