

1 **QUALITY ASSURANCE ON CONSTRUCTION**
2 **OF PUBLIC BUILDINGS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ed Mayne**

6 AN ACT RELATING TO ADMINISTRATIVE SERVICES; ESTABLISHING
7 REQUIREMENTS FOR AGENCIES WHO PERFORM CONSTRUCTION MATERIALS
8 TESTING AND INSPECTIONS ON PUBLIC BUILDINGS; AND MAKING TECHNICAL
9 CORRECTIONS.

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

11 AMENDS:

12 **63A-5-204**, as last amended by Chapter 3, Laws of Utah 1997

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

14 Section 1. Section **63A-5-204** is amended to read:

15 **63A-5-204. Specific powers and duties of director.**

16 (1) The director shall:

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

19 (b) supervise and control the allocation of space, in accordance with legislative directive
20 through annual appropriations acts or other specific legislation, to the various departments,
21 commissions, institutions, and agencies in the capitol, the state office building, and all other
22 buildings or space owned, leased, or rented by or to the state, except as otherwise provided by law;

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

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

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1 (e) recommend to the executive director rules to govern traffic flow and vehicle parking
2 on roadways and parking lots which surround the capitol and that are a part of Utah State Highway
3 293;

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

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

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

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

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

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

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

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

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

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

23 (c) State institutions of higher education are exempt from Division of Facilities
24 Construction and Management oversight.

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

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

30 (f) The division shall:

31 (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) In directing or delegating maintenance and operations under Subsection (2), the director shall ensure that any firm performing testing and inspection work on public buildings shall:

(a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials used in construction known as ASTM E-329;

(b) employ a full-time registered civil engineer with at least five years of engineering experience in materials testing;

(c) use laboratory facilities that are:

(i) inspected biannually by the Cement and Concrete Reference Laboratory, a division of the National Institute of Standards and Technology; and

(ii) accredited by one of the following:

(A) the National Council for Laboratory Accreditation;

(B) the National Voluntary Laboratory Accreditation Program; or

(C) the American Association of State Highway Transportation Officials;

(d) carry a minimum of \$1,000,000 of errors and omissions insurance; and

(e) perform site inspections only by inspectors who are certified by a nationally recognized agency such as:

(i) the International Conference of Building Officials;

(ii) the American Welding Society;

(iii) the American Concrete Institute; and

(iv) the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Uniform Building Standards Act.

~~[(3)]~~ (4) (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 this Subsection [(3)] (4).

(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)] (5) 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)] (6) 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)] (7) 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.

Legislative Review Note

as of 2-2-98 8:17 AM

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

Office of Legislative Research and General Counsel

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