

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

3                                   1999 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Ed P. Mayne**

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

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

10 AMENDS:

11                   **63A-5-204**, as last amended by Chapters 285 and 342, Laws of Utah 1998

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

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

14                   **63A-5-204. Specific powers and duties of director.**

15                   (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same  
16 meaning as provided in Section 63C-9-102.

17                   (2) The director shall:

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

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

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

27                   (d) acquire, as authorized by the Legislature through the appropriations act or other

28 specific legislation, and hold title to, in the name of the division, all real property, buildings,  
29 fixtures, or appurtenances owned by the state or any of its agencies;

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

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

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

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

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

40 (3) (a) The director shall direct or delegate maintenance and operations, preventive  
41 maintenance, and facilities inspection programs and activities for any department, commission,  
42 institution, or agency, except:

43 (i) the State Capitol Preservation Board; and

44 (ii) state institutions of higher education.

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

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

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

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

51 (c) The State Capitol Preservation Board and state institutions of higher education are  
52 exempt from Division of Facilities Construction and Management oversight.

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

55 (e) Except for the State Capitol Preservation Board, agencies and institutions that are  
56 exempt from division oversight shall annually report their compliance with the facility  
57 maintenance standards to the division in the format required by the division.

58 (f) The division shall:

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

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

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

65 (4) In directing or delegating maintenance and operations under Subsection (3), the  
66 director shall ensure that any firm performing testing and inspection work on public buildings  
67 shall:

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

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

73 (c) use laboratory facilities that are:

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

76 (ii) accredited by one of the following:

77 (A) the National Council for Laboratory Accreditation;

78 (B) the National Voluntary Laboratory Accreditation Program; or

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

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

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

83 (i) the International Conference of Building Officials;

84 (ii) the American Welding Society;

85 (iii) the American Concrete Institute; and

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

88 [~~4~~] (5) (a) In making any allocations of space under Subsection (2), the director shall:

89 (i) conduct studies to determine the actual needs of each department, commission,

90 institution, or agency; and

91 (ii) comply with the restrictions contained in this Subsection [~~(4)~~] (5).

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

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

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

97 (e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved  
98 to the State Capitol Preservation Board.

99 [~~(5)~~] (6) The director may:

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

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

105 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature  
106 through an appropriations act or other specific legislation, whatever real or personal property that  
107 is necessary for the discharge of the director's duties.

108 [~~(6)~~] (7) Notwithstanding the provisions of Subsection (2)(d), the following entities may  
109 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes  
110 other than administration that are under their control and management:

111 (a) the Office of Trust Administrator;

112 (b) the Department of Transportation;

113 (c) the Division of Forestry, Fire and State Lands;

114 (d) the Department of Natural Resources;

115 (e) the Utah National Guard;

116 (f) any area vocational center or other institution administered by the State Board of  
117 Education; and

118 (g) any institution of higher education.

119 [~~(7)~~] (8) Notwithstanding any other provision in this part, the Board of Regents may accept  
120 buildings, land, or a combination of buildings and land, donated to an eligible higher education

121 institution without obtaining approval of the donation from the director of the Division of Facilities  
122 Construction and Management.

123        [~~(8)~~] (9) Notwithstanding any other provision of this section, if a donor donates land to an  
124 eligible institution of higher education and commits to build a building or buildings on that land,  
125 and the institution agrees to provide funds for the operations and maintenance costs from sources  
126 other than state funds, and agrees that the building or buildings will not be eligible for state capital  
127 improvement funding, the higher education institution may:

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

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

132        [~~(9)~~] (10) Notwithstanding Subsections (2)(c) and (d), the School and Institutional Trust  
133 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances  
134 held by it that are under its control.

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**Legislative Review Note**  
**as of 12-18-98 9:48 AM**

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

**Office of Legislative Research and General Counsel**