

1 **UTAH DEPARTMENT OF TRANSPORTATION**

2 **MAINTENANCE SHEDS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gerry A. Adair**

6 AN ACT RELATING TO TRANSPORTATION AND ADMINISTRATIVE SERVICES;
7 AMENDING CERTAIN AUTHORITY RELATED TO THE EXCHANGES OF REAL
8 PROPERTY BY THE DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN
9 EFFECTIVE DATE.

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

11 AMENDS:

12 **63A-5-206**, as last amended by Chapters 225 and 285, Laws of Utah 1998

13 **72-5-111**, as renumbered and amended by Chapter 270, Laws of Utah 1998

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

15 Section 1. Section **63A-5-206** is amended to read:

16 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
17 **director -- Exceptions -- Expenditure of appropriations.**

18 (1) As used in this section:

19 (a) "Analysis" means an economic assessment of competing design and maintenance
20 alternatives, the object of which is to reduce cost and conserve energy.

21 (b) "Capital developments" means any:

22 (i) remodeling, site, or utility projects with a total cost of \$1,000,000 or more;

23 (ii) addition of new space that will cost more than \$100,000; or

24 (iii) land acquisition where an appropriation is requested.

25 (c) "Capital improvements" means any:

26 (i) remodeling, alteration, repair project with a total cost of less than \$1,000,000; or

27 (ii) site and utility improvement with a total cost of less than \$1,000,000.

28 (d) "Life cycle cost-effective" means the lowest cost of owning and operating a facility
29 over a 25-year period, including the initial cost, energy costs, operation and maintenance costs,
30 repair costs, and the costs of energy conservation and renewable energy systems.

31 (e) "Renewable energy system" means a system designed to use solar, wind, geothermal
32 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
33 building.

34 (f) "State-owned facilities" means those facilities identified in Section 63A-5-212.

35 (2) The director shall prepare or have prepared by private firms or individuals designs,
36 plans, and specifications for the various buildings and improvements, and other work carried out
37 by the division.

38 (3) (a) (i) Except as provided in Subsection (3)(a)(ii) or (3)(a)(iii), and except for facilities
39 under the jurisdiction of the State Capitol Preservation Board, the director shall recommend the
40 need for and exercise direct supervision over the design and construction of all alterations, repairs,
41 and improvements to all existing facilities of the state, its departments, commissions, institutions,
42 and agencies if the total project construction cost is greater than \$100,000.

43 (ii) The director may:

44 (A) authorize a department, commission, institution, or agency to control design and
45 construction of alterations, repairs, and improvements when the total project construction cost is
46 greater than \$100,000 by following the delegation requirements and procedures of Subsection
47 (3)(c); or

48 (B) by rule, authorize a particular department, commission, institution, or agency to control
49 design and construction on projects within a particular dollar range and a particular project type.

50 (iii) (A) At the request of This is the Place Foundation, the director may authorize the
51 foundation to control design and construction of alterations, repairs, or improvements to facilities
52 at This is the Place State Park to be made with funds of the foundation, including grant monies
53 from the state, or with donated services or materials.

54 (B) If the foundation controls design and construction as provided in Subsection
55 (3)(a)(iii)(A), the alterations, repairs, or improvements are subject to plan review and inspection
56 by Salt Lake City for the purpose of assuring compliance with building codes.

57 (b) (i) Except for the placement or installation of works of art through Title 9, Chapter 6,
58 Part 4, Utah Percent-for-Art Act, or as provided in Subsection (3)(b)(ii), and except for facilities

59 under the jurisdiction of the State Capitol Preservation Board, an existing facility may not be
60 altered, repaired, or improved on the property of any state institution, department, commission, or
61 agency if the total project construction cost exceeds \$100,000 until the location, design, plans, and
62 specifications are approved by the director and the officials charged with the administration of the
63 affairs of the particular department, commission, institution, or agency.

64 (ii) Alterations, repairs, or improvements to facilities at This is the Place State Park to be
65 made by This is the Place Foundation with funds of the foundation, including grant monies from
66 the state, or with donated services or materials, are exempt from Subsection (3)(b)(i).

67 (c) (i) The director may delegate control over design, construction, and all other aspects
68 of any project to entities of state government on a project-by-project basis if the state entity
69 requests that delegation in writing and the State Building Board approves the delegation.

70 (ii) (A) The director, his designee, or the state entity to whom control has been designated
71 pursuant to Subsection (5)(c)(i) shall notify in writing the elected representatives of local
72 government entities directly and substantively affected by any diagnostic, treatment, parole,
73 probation, or other secured facility project exceeding \$250,000, if:

74 (I) the nature of the project has been significantly altered since prior notification or
75 approval;

76 (II) the project would significantly change the nature of the functions presently conducted
77 at the location;

78 (III) the project adds 50% or more square feet to the area of the facility; or

79 (IV) the project is new construction.

80 (B) At the request of either the state entity or the local government entity, representatives
81 from the state entity and the affected local entity shall conduct or participate in a local public
82 hearing or hearings to discuss these issues.

83 (iii) The state entity to whom control is delegated shall assume fiduciary control over
84 project finances, shall assume all responsibility for project budgets and expenditures, and shall
85 receive all funds appropriated for the project, including any contingency funds contained in the
86 appropriated project budget.

87 (iv) Delegation of project control does not exempt the state entity from complying with
88 the codes and guidelines for design and construction adopted by the division and the State Building
89 Board.

90 (v) State entities that receive a delegated project may not have access to the building board
91 contingency funds authorized in Section 63A-5-209 for the delegated project.

92 (4) (a) The director shall ensure that state-owned facilities, except for facilities under the
93 control of the State Capitol Preservation Board, are life cycle cost effective.

94 (b) The estimated cost of the analysis shall be included in each program budget document
95 and in the project funding request submitted to the State Building Board, the governor, and the
96 Legislature.

97 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

98 (d) The director, in consultation with the State Building Board and Division of Energy,
99 shall make rules to implement this subsection by following the procedures and requirements of
100 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

101 (e) The State Building Board may exempt a facility from being life cycle cost-effective
102 pursuant to rules, after reviewing and concurring with a written request and justification from the
103 director.

104 (5) (a) Except as provided in Subsection (5)(c) or (5)(d), and except for facilities
105 constructed on property under the jurisdiction of the State Capitol Preservation Board, the director
106 shall recommend the need for and exercise direct supervision over the design and construction of
107 all new facilities of the state, its departments, commissions, institutions, and agencies if the total
108 project construction cost is in excess of \$100,000.

109 (b) (i) Except for the placement or installation of works of art under Title 9, Chapter 6,
110 Part 4, Utah Percent-for-Art Act, or as provided in Subsection (5)(b)(ii), (5)(b)(iii), or (5)(b)(iv),
111 (5)(b)(v), and except for facilities constructed on property under the jurisdiction of the State
112 Capitol Preservation Board, a new facility may not be constructed on the property of any state
113 department, commission, institution, or agency if the total project construction cost of the facility,
114 regardless of the funding source, exceeds \$100,000, until the construction of the facility has been
115 approved by the Legislature in an Appropriations Act or by other specific legislation, and the
116 location, design, plans, and specifications are approved by the director and the official charged
117 with the administration of the affairs of the particular department, commission, institution, or
118 agency.

119 (ii) Facilities to be built with nonstate funds and owned and occupied by nonstate entities
120 within research park areas are exempt from this Subsection (5)(b).

121 (iii) Facilities to be built for the Utah National Guard for which the funding for
122 construction, operations, and maintenance are derived totally from the United States Government
123 are exempt from the requirement of obtaining legislative approval required by this Subsection
124 (5)(b).

125 (iv) New facilities to be built at This is the Place State Park by This is the Place
126 Foundation with funds of the foundation, including grant monies from the state, or with donated
127 services or materials, are exempt from Subsection (5)(b)(i).

128 (v) New state-owned facilities to be built for the Department of Transportation as a result
129 of an exchange of real property under Section 72-5-111, are exempt from the requirement of
130 obtaining legislative approval required by this Subsection (5)(b).

131 (c) (i) The director may delegate control over design, construction, and all other aspects
132 of any project to entities of state government on a project-by-project basis if the state entity
133 requests that delegation in writing and the State Building Board approves the delegation.

134 (ii) The state entity to whom control is delegated shall assume fiduciary control over
135 project finances, shall assume all responsibility for project budgets and expenditures, and shall
136 receive all funds appropriated for the project, including any contingency funds contained in the
137 appropriated project budget.

138 (iii) Delegation of project control does not exempt the state entity from complying with
139 the codes and guidelines for design and construction adopted by the division and the State Building
140 Board.

141 (iv) State entities that receive a delegated project may not have access to the building board
142 contingency funds authorized in Section 63A-5-209 for the delegated project.

143 (d) (i) At the request of This is the Place Foundation, the director may authorize the
144 foundation to control design and construction of any new facility at This is the Place State Park
145 to be built with funds of the foundation, including grant monies from the state, or with donated
146 services or materials.

147 (ii) If the foundation controls design and construction as provided in Subsection (5)(d)(i),
148 the new facility is subject to plan review and inspection by Salt Lake City for the purpose of
149 assuring compliance with building codes.

150 (6) The director may expend appropriations for statewide projects from funds provided by
151 the Legislature for those specific purposes and within guidelines established by the State Building

152 Board.

153 (7) (a) The director, with the approval of the Office of Legislative Fiscal Analyst, shall
154 develop standard forms to present capital development and capital improvement cost summary
155 data.

156 (b) The director shall:

157 (i) within 30 days after the completion of each capital development project, submit cost
158 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst; and

159 (ii) upon request, submit cost summary data for a capital improvement project to the Office
160 of Legislative Fiscal Analyst on the standard form.

161 (8) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures Act,
162 the director may:

163 (a) accelerate the design of projects funded by any appropriation act passed by the
164 Legislature in its annual general session;

165 (b) use any unencumbered existing account balances to fund that design work; and

166 (c) reimburse those account balances from the amount funded for those projects when the
167 appropriation act funding the project becomes effective.

168 Section 2. Section **72-5-111** is amended to read:

169 **72-5-111. Disposal of real property.**

170 (1) (a) If the department determines that any real property or interest in real property,
171 acquired for a highway purpose, is no longer necessary for the purpose, the department may lease,
172 sell, exchange, or otherwise dispose of the real property or interest in the real property.

173 (b) (i) Real property may be sold at private or public sale [and].

174 (ii) Except as provided in Subsection (1)(c) related to exchanges, the proceeds of the sale
175 shall be [~~turned over to~~] deposited with the state treasurer and credited to the Transportation Fund.

176 (c) If approved by the commission, real property or an interest in real property may be
177 exchanged by the department for other real property or interest in real property, including
178 improvements, for highway purposes.

179 (2) In the disposition of land at any private sale, first consideration may be given to the
180 original grantor or his successor-in-interest.

181 (3) Any sale, exchange, or disposal of real property or interest in real property made by the
182 department pursuant to this section, is exempt from the mineral reservation provisions of Title

183 65A, Chapter 6, Mineral Leases, and any deed made and delivered by the department pursuant to
184 this section without specific reservations in the deed is a conveyance of all the state's right, title,
185 and interest in the real property or interest in the real property.

186 Section 3. **Effective date.**

187 If approved by two-thirds of all the members elected to each house, this act takes effect
188 upon approval by the governor, or the day following the constitutional time limit of Utah
189 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
190 date of veto override.

Legislative Review Note

as of 1-7-00 4:39 PM

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

Office of Legislative Research and General Counsel