

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

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ed P. Mayne**

6 AN ACT RELATING TO ADMINISTRATIVE SERVICES; MAKING A TECHNICAL
7 CORRECTION TO CONSTRUCTION TESTING AND MATERIALS REQUIREMENTS FOR
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 Chapter 135, Laws of Utah 1999

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

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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) (a) In making any allocations of space under Subsection (2), the director shall:

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

68 (ii) comply with the restrictions contained in this Subsection (4).

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

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

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

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

76 (5) The director may:

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

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

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

85 (6) Notwithstanding the provisions of Subsection (2)(d), the following entities may hold
86 title to any real property, buildings, fixtures, and appurtenances held by them for purposes other
87 than administration that are under their control and management:

88 (a) the Office of Trust Administrator;

89 (b) the Department of Transportation;

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

91 (d) the Department of Natural Resources;

92 (e) the Utah National Guard;

93 (f) any area vocational center or other institution administered by the State Board of

94 Education; and

95 (g) any institution of higher education.

96 (7) The director shall ensure that any firm performing testing and inspection work

97 governed by the American Society for Testing Materials Standard E-329 on public buildings under

98 the director's supervision shall:

99 (a) fully comply with the American Society for Testing Materials standard specifications

100 for agencies engaged in the testing and inspection of materials known as ASTM E-329; and

101 (b) carry a minimum of \$1,000,000 of errors and omissions insurance[; and].

102 [~~(c) when testing concrete, use laboratory facilities that are inspected annually by the~~

103 ~~Cement and Concrete Reference Laboratory, a division of the National Institute of Standards and~~

104 ~~Technology.]~~

105 (8) Notwithstanding any other provision in this part, the Board of Regents may accept

106 buildings, land, or a combination of buildings and land, donated to an eligible higher education

107 institution without obtaining approval of the donation from the director of the Division of Facilities

108 Construction and Management.

109 (9) Notwithstanding any other provision of this section, if a donor donates land to an

110 eligible institution of higher education and commits to build a building or buildings on that land,

111 and the institution agrees to provide funds for the operations and maintenance costs from sources

112 other than state funds, and agrees that the building or buildings will not be eligible for state capital

113 improvement funding, the higher education institution may:

114 (a) oversee and manage the construction without involvement, oversight, or management

115 from the Division of Facilities Construction and Management; or

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

117 Management.

118 (10) Notwithstanding Subsections (2)(c) and (d), the School and Institutional Trust Lands

119 Administration may hold title to any real property, buildings, fixtures, and appurtenances held by

120 it that are under its control.

Legislative Review Note
as of 12-28-99 8:36 AM

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

Office of Legislative Research and General Counsel