

**Representative Ron Bigelow** proposes the following substitute bill:

**PRIVATIZATION POLICY BOARD**

**AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ron Bigelow**

**This act modifies provisions on the Privatization Policy Board by increasing the membership of the board and allowing the board to review local government agencies regarding privatization issues. The act removes the \$2,000,000 maximum requirement for an agency to independently privatize a service or function.**

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

AMENDS:

**63-55a-1**, as enacted by Chapter 221, Laws of Utah 1989

**63-55a-2**, as last amended by Chapters 18, 194 and 243, Laws of Utah 1996

**63-55a-3**, as last amended by Chapter 18, Laws of Utah 1996

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

Section 1. Section **63-55a-1** is amended to read:

**63-55a-1. Definitions.**

(1) (a) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(b) "Agency" includes departments, divisions, offices, bureaus, boards, commissions, and other administrative units of the state's counties and municipalities.

(2) "Agency head" means the chief administrative officer of an agency.

(3) "Privatization" means action by a state agency to contract with the private sector or with another state agency to perform functions or services currently being performed by it.

Section 2. Section **63-55a-2** is amended to read:



26           **63-55a-2. Privatization Policy Board -- Created -- Membership -- Operations --**  
27 **Expenses.**

28           (1) (a) There is created a Privatization Policy Board composed of [~~13~~] 15 members.

29           (b) The governor shall appoint:

30           (i) two senators, one each from the majority and minority political parties, from names  
31 recommended by the president of the Senate;

32           (ii) two representatives, one each from the majority and minority political parties, from  
33 names recommended by the speaker of the House;

34           (iii) two members representing public employees, from names recommended by the  
35 largest public employees' association;

36           (iv) one member from state management;

37           (v) five members from the private business community; [~~and~~]

38           (vi) one member representing education[?];

39           (vii) one member representing the Utah League of Cities and Towns from names  
40 recommended by the league; and

41           (viii) one member representing the Utah Association of Counties from names  
42 recommended by the association.

43           (2) (a) Except as required by Subsection (b), board members shall serve four-year  
44 terms.

45           (b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time  
46 of appointment or reappointment, adjust the length of terms to ensure that the terms of board  
47 members are staggered so that approximately half of the board is appointed every two years.

48           (3) (a) Each board member shall hold office until his successor has been appointed and  
49 qualified.

50           (b) When a vacancy occurs in the membership for any reason, the replacement shall be  
51 appointed for the unexpired term.

52           (c) [~~Seven~~] Eight members of the board are a quorum for the purpose of organizing the  
53 board and conducting the business of the board.

54           (d) The vote of a majority of members voting when a quorum is present is necessary  
55 for the board to take action.

56           (4) (a) At the initial meeting of the board, the board shall select one of their number to

57 serve as chair of the board.

58 (b) The chief procurement officer or his designee is the nonvoting secretary to the  
59 board and is responsible for scheduling quarterly meetings.

60 (c) The board shall meet at least quarterly and at the call of the chair.

61 (5) (a) (i) Members who are not government employees shall receive no compensation  
62 or benefits for their services, but may receive per diem and expenses incurred in the  
63 performance of the member's official duties at the rates established by the Division of Finance  
64 under Sections 63A-3-106 and 63A-3-107.

65 (ii) Members may decline to receive per diem and expenses for their service.

66 (b) (i) State government officer and employee members who do not receive salary, per  
67 diem, or expenses from their agency for their service may receive per diem and expenses  
68 incurred in the performance of their official duties from the board at the rates established by the  
69 Division of Finance under Sections 63A-3-106 and 63A-3-107.

70 (ii) State government officer and employee members may decline to receive per diem  
71 and expenses for their service.

72 (c) Legislators on the committee shall receive compensation and expenses as provided  
73 by law and legislative rule.

74 Section 3. Section **63-55a-3** is amended to read:

75 **63-55a-3. Privatization Policy Board -- Duties.**

76 (1) ~~h~~ **[The] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), THE h** board shall:

77 (a) review whether or not certain services performed by existing state agencies could  
78 be privatized to provide the same types and quality of services that would result in cost  
79 savings;

80 (b) review particular requests for privatization of services and issues concerning  
81 agency competition with the private sector and determine whether privatization would be  
82 feasible and would result in cost savings and ways to eliminate any unfair competition;

83 (c) recommend privatization to the agency head when the proposed privatization is  
84 demonstrated to provide a more cost efficient and effective manner of providing existing  
85 governmental services;

86 (d) comply with the provisions of Title 63, Chapter 46a, the Utah Administrative  
87 Rulemaking Act, in making rules establishing privatization standards, procedures, and

88 requirements;

89 (e) maintain communication with and access information from, other entities

90 promoting privatization;

91 (f) prepare an annual report that contains:

92 (i) information about the board's activities; and

93 (ii) recommendations on privatizing government services; and

94 (g) submit the annual report to the Legislature and the governor.

95 (2) In addition to filing copies of its recommendations for privatization with the  
96 relevant agency head, the board shall file copies of its recommendations for privatization with:

97 (a) the governor's office; and

98 (b) the Office of Legislative Fiscal Analyst for submission to the relevant Legislative  
99 Appropriation Subcommittee.

100 (3) (a) The board may appoint advisory groups to conduct studies, research, analyses,  
101 and make reports and recommendations with respect to subjects or matters within the  
102 jurisdiction of the board.

103 (b) At least one member of the board shall serve on each advisory group.

104 (4) This chapter does not preclude any agency from privatizing any service or function  
105 independently of the board if [~~:(a) the contract is expending less than \$2,000,000 of the agency~~  
106 ~~budget in a fiscal year;~~(b)] as part of the contract that privatizes the function, the contractor  
107 assumes all liability to perform the privatized function[~~;~~and].

108 [~~(c) the agency notifies the board at least 120 days before the privatization occurs of~~  
109 ~~their intent to privatize the function.~~]

109a **h (5) THE BOARD MAY NOT EXERCISE ITS AUTHORITY UNDER SUBSECTION (1) OVER AN**  
109b **AGENCY REFERRED TO IN SUBSECTION 63-55a-1(b), UNLESS REQUESTED BY THE AGENCY.** <sup>h</sup>