

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:

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

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

(b) The governor shall appoint:

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

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

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

(iv) one member from state management;

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

(vi) one member representing education[-];

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

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

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

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

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

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

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

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

(4) (a) At the initial meeting of the board, the board shall select one of their number to serve as chair of the board.

(b) The chief procurement officer or his designee is the nonvoting secretary to the board

and is responsible for scheduling quarterly meetings.

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

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

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

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

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

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

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

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

(1) [~~The~~] Except as otherwise provided in Subsection (5), the board shall:

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

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

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

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

requirements;

(e) maintain communication with and access information from, other entities promoting privatization;

(f) prepare an annual report that contains:

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

(ii) recommendations on privatizing government services; and

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

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

(a) the governor's office; and

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

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

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

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

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

(5) The board may not exercise its authority under Subsection (1) over an agency referred to in Subsection 63-55a-1(b), unless requested by the agency.