

**AMENDMENTS TO ADMINISTRATIVE
SERVICES RATE COMMITTEE**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David Clark

LONG TITLE

General Description:

This bill creates a Rate Committee to review the fees collected by internal service funds within the Department of Administrative Services.

Highlighted Provisions:

This bill:

- ▶ moves the current rate committee from the Division of Information Technology Services to the general provisions of the Administrative Services Code;
- ▶ changes the membership of the Rate Committee;
- ▶ clarifies the duties of the Rate Committee; and
- ▶ clarifies the responsibilities of the divisions within the Department of Administrative Services to conduct a market analysis of fees charged by July 1, 2005, and periodically thereafter, and to submit the market analysis and proposed fee schedules to the Rate Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-2-103, as last amended by Chapter 11, Laws of Utah 1998

63A-4-102, as renumbered and amended by Chapter 212, Laws of Utah 1993

63A-5-204, as last amended by Chapters 23 and 231, Laws of Utah 2000

63A-6-105, as last amended by Chapters 16 and 209, Laws of Utah 2003

63A-9-401, as last amended by Chapter 5, Laws of Utah 2003

ENACTS:

63A-1-114, Utah Code Annotated 1953

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

Section 1. Section **63A-1-114** is enacted to read:

63A-1-114. Rate Committee -- Membership -- Duties.

(1) (a) There is created a Rate Committee which shall consist of:

(i) the director of the Governor's Office of Planning and Budget, or a designee;

(ii) the executive directors of three state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term;

(iii) the executive director of the Department of Administrative Services, or a designee;

(iv) the director of the Division of Finance, or a designee; and

(v) the chief information officer.

(b) (i) The committee shall elect a chair from its members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(c) The Department of Administrative Services shall provide staff services to the committee.

(2) (a) The internal service funds managed by the following divisions shall submit to the committee a proposed rate and fee schedule for services rendered by the divisions to an executive branch entity or an entity that subscribes to services rendered by the division, the:

(i) Division of Facilities and Construction Management;

(ii) Division of Fleet Operations;

(iii) Division of Purchasing and General Services;

(iv) Division of Information Technology Services; and

(v) Division of Risk Management.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings;

(ii) review the proposed rate and fee schedules and may approve, increase, or decrease the rate and fee;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Planning and Budget; and

(B) the legislative appropriations subcommittees that, in accordance with Section 63-38-3.5, approve the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate, fee, or amount that has been approved by the Legislature.

Section 2. Section **63A-2-103** is amended to read:

63A-2-103. General services provided -- Subscription by state departments, state agencies, and certain local governmental entities -- Fee schedule.

(1) (a) The director of the Division of Purchasing and General Services shall operate, manage, and maintain:

(i) a central mailing service; and

(ii) an electronic central store system for procuring goods and services.

(b) The director may establish microfilming, duplicating, printing, addressograph, and other central services.

(2) (a) Each state department and agency shall subscribe to all of the services described in Subsection (1), unless the director delegates the director's authority to a department or agency under Section 63A-2-104.

(b) An institution of higher education, school district, or political subdivision of the state may subscribe to one or more of the services described in Subsection (1).

(3) ~~(a)~~ The director shall:

(a) prescribe a schedule of fees to be charged for all services provided by the division to any department or agency after ~~[receiving prior approval of the fee schedule from the: (i) director of the Division of Finance; and]~~ the director:

(i) submits the proposed rate, fees, or other amounts for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

(ii) obtains the approval of the Legislature, as required by ~~[Section-]~~ Sections 63-38-3.2~~[-]~~ and 63-38-3.5;

(b) ~~[When]~~ when practicable, ~~[the director of the Division of Purchasing and General Services shall]~~ ensure that the fees are approximately equal to the cost of providing the services~~[-]; and~~

(c) conduct a market analysis by July 1, 2005, and periodically thereafter of fees, which analysis shall include comparison of the division's rates with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section 3. Section **63A-4-102** is amended to read:

63A-4-102. Risk manager -- Powers.

(1) The risk manager may:

(a) enter into contracts;

(b) purchase insurance;

(c) adjust, settle, and pay claims;

(d) pay expenses and costs;

(e) study the risks of all state agencies and properties;

(f) issue certificates of coverage to state agencies for any risks covered by Risk

Management Fund;

(g) make recommendations about risk management and risk reduction strategies to state agencies;

(h) in consultation with the attorney general, prescribe insurance and liability provisions to be included in all state contracts;

(i) review agency building construction, major remodeling plans, agency program plans, and make recommendations to the agency about needed changes to address risk considerations;

(j) attend agency planning and management meetings when necessary;

(k) review any proposed legislation and communicate with legislators and legislative committees about the liability or risk management issues connected with any legislation; and

(l) solicit any needed information about agency plans, agency programs, or agency risks necessary to perform his responsibilities under this part.

(2) (a) The risk manager may expend monies from the Risk Management Fund to procure and provide coverage to all state agencies and their indemnified employees, except those agencies or employees specifically exempted by statute.

(b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.

(3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:

(a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63-38-3.5.

(4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section 4. Section **63A-5-204** is amended to read:

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

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

(2) (a) The director shall:

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

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

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

(iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

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

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

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

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

(ix) before charging a rate, fee, or other amount for services provided by the division's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(B) obtain the approval of the Legislature as required by Section 63-38-3.5;

(x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available; and

~~[(ix)]~~ (xi) take all other action necessary for carrying out the purposes of this chapter.

(b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.

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

(i) the State Capitol Preservation Board; and

(ii) state institutions of higher education.

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

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

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

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

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

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

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

(f) The division shall:

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

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

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

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

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

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

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

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

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

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

(5) The director may:

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

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

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties.

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

(a) the Office of Trust Administrator;

- (b) the Department of Transportation;
- (c) the Division of Forestry, Fire and State Lands;
- (d) the Department of Natural Resources;
- (e) the Utah National Guard;
- (f) any area vocational center or other institution administered by the State Board of Education; and
- (g) any institution of higher education.

(7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings under the director's supervision shall:

- (a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials known as ASTM E-329; and
- (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

(8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held by it that are under its control.

Section 5. Section **63A-6-105** is amended to read:

63A-6-105. Duties of director -- Fees -- Rate Committee -- Advisory committee.

- (1) The director shall:
 - (a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:
 - (i) all executive branch agencies; and
 - (ii) entities that subscribe to the services in accordance with Section 63A-6-106; and
 - (b) provide priority service to public safety agencies.
- (2) The director may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities.
- (3) Where practical, efficient, and economically beneficial, the director shall use existing private and public information technology or telecommunication resources.

(4) (a) In accordance with Section 63D-1a-303, the director shall provide the chief information officer a written analysis of any agency information technology plan provided to the division.

(b) In accordance with Section 63D-1a-307, the division shall submit the division's agency information technology plan for approval by the chief information officer.

(5) (a) In accordance with this Subsection (5), the director shall prescribe a schedule of fees for all services rendered by the division to:

(i) an executive branch entity; or

(ii) an entity that subscribes to services rendered by the division in accordance with Section 63A-6-106.

(b) Each fee included in the schedule of fees required by Subsection (5)(a) shall be:

(i) equitable; and

(ii) sufficient to recover all the costs of operation, including the cost of capital equipment and facilities.

(c) Before charging a fee to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall [~~obtain approval of the schedule of fees described in Subsection (5)(a) from the Rate Committee created in Subsection (5)(d):~~];

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63-38-3.5.

(d) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates with the fees of other public or private sector providers where comparable services and rates are reasonably available.

~~[(d) (i) There is created a Rate Committee which shall consist of:]~~

~~[(A) the executive director;]~~

~~[(B) the director of the Division of Finance;]~~

~~[(C) the director of the Governor's Office of Planning and Budget;]~~

~~[(D) the chief information officer;]~~

~~[(E) a representative of executive branch agencies:]~~

~~[(F) appointed by the Rate Committee; and]~~

~~[(H) nominated by the governor; and]~~

~~[(F) a representative of the executive branch agencies' administrative services managers:]~~

~~[(F) appointed by the Rate Committee; and]~~

~~[(H) nominated by the agencies' administrative services managers coordination group.]~~

~~[(ii) In appointing the agency representatives listed in Subsections (5)(d)(i)(E) and (F), the Rate Committee shall appoint:]~~

~~[(A) (I) one representative from a large agency; and]~~

~~[(H) one representative from a small agency; and]~~

~~[(B) the representatives described in Subsection (5)(d)(ii)(A) to four-year terms of office, except that initially one of the appointments shall be for a two-year term in order to stagger the appointments.]~~

~~[(iii) In the event of a vacancy for any reason for a representative described in Subsection (5)(d)(i)(E) or (F), the entity responsible for nominating the person who is vacating the position shall provide new nominations to the Rate Committee to fill the unexpired term.]~~

~~[(e) Before charging a fee to a subscriber of services other than an executive branch agency, the director shall provide a copy of the schedule of fees to the commission at least 60 days before the day on which the fee is charged.]~~

~~[(f) When modifying a fee, the director shall attempt to provide sufficient notice to the entities that will be charged the modified fee so that the entities may reflect those fee changes in the entities' budgets.]~~

(6) (a) The director shall create advisory committees composed of representatives of user agencies.

(b) Those advisory committees may recommend policies and practices for the efficient and effective operation of the division.

Section 6. Section **63A-9-401** is amended to read:

63A-9-401. Division -- Duties.

- (1) The division shall:
- (a) perform all administrative duties and functions related to management of state vehicles;
 - (b) coordinate all purchases of state vehicles;
 - (c) establish one or more fleet automation and information systems for state vehicles;
 - (d) make rules establishing requirements for:
 - (i) maintenance operations for state vehicles;
 - (ii) use requirements for state vehicles;
 - (iii) fleet safety and loss prevention programs;
 - (iv) preventative maintenance programs;
 - (v) procurement of state vehicles, including vehicle standards, alternative fuel vehicle requirements, short-term lease programs, equipment installation, and warranty recovery programs;
 - (vi) fuel management programs;
 - (vii) cost management programs;
 - (viii) business and personal use practices, including commute standards;
 - (ix) cost recovery and billing procedures;
 - (x) disposal of state vehicles;
 - (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
 - (xii) standard use and rate structures for state vehicles; and
 - (xiii) insurance and risk management requirements;
 - (e) establish a parts inventory;
 - (f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);
 - (g) emphasize customer service when dealing with agencies and agency employees; ~~and~~
 - (h) conduct an annual audit of all state vehicles for compliance with division requirements[-];
 - (i) before charging a rate, fee, or other amount to an executive branch agency, or to a

subscriber of services other than an executive branch agency:

(A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(B) obtain the approval of the Legislature as required by Section 63-38-3.5; and

(j) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

(2) The division shall operate a fuel dispensing services program in a manner that:

(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;

(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;

(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks; and

(c) ensure that counties, municipalities, school districts, and special districts subscribing to services provided by the division sign a contract that:

- (i) establishes the duties and responsibilities of the parties;
- (ii) establishes the cost for the services; and
- (iii) defines the liability of the parties.

(4) The executive director of the Department of Administrative Services may make rules governing fuel dispensing according to the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(5) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, special districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the special district board recommends that the county, municipality, school district, or special district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(6) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.