

Representative Stephen D. Clark proposes the following substitute bill:

STUDENT HOUSING BUILT BY HIGHER

EDUCATION INSTITUTIONS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Stephen D. Clark

LONG TITLE

General Description:

This bill enacts provisions relating to student housing built by institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ requires the director of the Division of Facilities Construction and Management and public and private institutions of higher education to provide notice to local government before constructing student housing next to residential property; and
- ▶ provides for a public hearing about the proposed construction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5-206, as last amended by Chapters 216 and 231, Laws of Utah 2000

ENACTS:

10-9-109, Utah Code Annotated 1953



26 17-27-108, Utah Code Annotated 1953
27 53B-2-109, Utah Code Annotated 1953



28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section 10-9-109 is enacted to read:

31 **10-9-109. Notice to local government when a private institution of higher**
32 **education is constructing student housing.**

33 (1) Each private institution of higher education that intends to construct student
34 housing on property owned by the institution shall provide written notice of the intended
35 construction, as provided in Subsection (2), before any funds are committed to the
36 construction, if any of the proposed student housing buildings is within 100 feet of privately
37 owned residential property.

38 (2) Each notice under Subsection (1) shall be provided to the legislative body and, if
39 applicable, the mayor of:

40 (a) the county in whose unincorporated area the privately owned residential property is
41 located; or

42 (b) the municipality in whose boundaries the privately owned residential property is
43 located.

44 (3) At the request of a county or municipality that is entitled to notice under this
45 section, the institution and the legislative body of the affected county or municipality shall hold
46 a public hearing to provide information to the public and receive input from the public about
47 the proposed construction.

48 Section 2. Section 17-27-108 is enacted to read:

49 **17-27-108. Notice to local government when constructing student housing.**

50 (1) Each private institution of higher education that intends to construct student
51 housing on property owned by the institution shall provide written notice of the intended
52 construction, as provided in Subsection (2), before any funds are committed to the
53 construction, if any of the proposed student housing buildings is within 100 feet of privately
54 owned residential property.

55 (2) Each notice under Subsection (1) shall be provided to the legislative body and, if
56 applicable, the mayor of:

57 (a) the county in whose unincorporated area the privately owned residential property is
58 located; or

59 (b) the municipality in whose boundaries the privately owned residential property is
60 located.

61 (3) At the request of a county or municipality that is entitled to notice under this
62 section, the institution and the legislative body of the affected county or municipality shall hold
63 a public hearing to provide information to the public and receive input from the public about
64 the proposed construction.

65 Section 3. Section **53B-2-109** is enacted to read:

66 **53B-2-109. Notice to local government when constructing student housing.**

67 (1) Each institution that intends to construct student housing on property owned by the
68 institution shall provide written notice of the intended construction, as provided in Subsection
69 (2), before any funds are committed to the construction, if any of the proposed student housing
70 buildings is within 100 feet of privately owned residential property.

71 (2) Each notice under Subsection (1) shall be provided to the legislative body and, if
72 applicable, the mayor of:

73 (a) the county in whose unincorporated area the privately owned residential property is
74 located; or

75 (b) the municipality in whose boundaries the privately owned residential property is
76 located.

77 (3) (a) At the request of a county or municipality that is entitled to notice under this
78 section, the institution and the legislative body of the affected county or municipality shall hold
79 a public hearing to provide information to the public and receive input from the public about
80 the proposed construction.

81 (b) A public hearing held under Subsection (3)(a) satisfies the public hearing
82 requirement of Subsection 63A-5-206(13)(b) for the same proposed student housing
83 construction.

84 Section 4. Section **63A-5-206** is amended to read:

85 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
86 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
87 **governments for construction or modification of certain facilities.**

88 (1) As used in this section:

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

91 (b) "Capital developments" and "capital improvements" have the same meaning as
92 provided in Section 63A-5-104.

93 (c) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).

94 (d) (i) "Facility" means any building, structure, or other improvement that is
95 constructed on property owned by the state, its departments, commissions, institutions, or
96 agencies.

97 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
98 highway system.

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

102 (f) "Local government" means the county, municipality, or local school district that
103 would have jurisdiction to act as the compliance agency if the property on which the project is
104 being constructed were not owned by the state.

105 (g) "Renewable energy system" means a system designed to use solar, wind,
106 geothermal power, wood, or other replenishable energy source to heat, cool, or provide
107 electricity to a building.

108 (2) (a) Except as provided in Subsections (3) and (4), the director shall exercise direct
109 supervision over the design and construction of all new facilities, and all alterations, repairs,
110 and improvements to existing facilities if the total project construction cost, regardless of the
111 funding source, is greater than \$100,000.

112 (b) The director shall prepare or have prepared by private firms or individuals designs,
113 plans, and specifications for the projects administered by the division.

114 (c) Before proceeding with construction, the director and the officials charged with the
115 administration of the affairs of the particular department, commission, institution, or agency
116 shall approve the location, design, plans, and specifications.

117 (3) Projects for the construction of new facilities and alterations, repairs, and
118 improvements to existing facilities are not subject to Subsection (2) if the project:

119 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

120 (b) is within a designated research park at the University of Utah or Utah State

121 University;

122 (c) occurs within the boundaries of This is the Place State Park and is administered by

123 This is the Place Foundation except that This is the Place Foundation may request the director

124 to administer the design and construction; or

125 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah

126 Percent-for-Art Program.

127 (4) (a) (i) The State Building Board may authorize the delegation of control over

128 design, construction, and all other aspects of any project to entities of state government on a

129 project-by-project basis or for projects within a particular dollar range and a particular project

130 type.

131 (ii) The state entity to whom control is delegated shall assume fiduciary control over

132 project finances, shall assume all responsibility for project budgets and expenditures, and shall

133 receive all funds appropriated for the project, including any contingency funds contained in the

134 appropriated project budget.

135 (iii) Delegation of project control does not exempt the state entity from complying with

136 the codes and guidelines for design and construction adopted by the division and the State

137 Building Board.

138 (iv) State entities that receive a delegated project may not access, for the delegated

139 project, the division's statewide contingency reserve and project reserve authorized in Section

140 63A-5-209.

141 (b) For facilities that will be owned, operated, maintained, and repaired by an entity

142 that is not a state agency or institution and that are located on state property, the State Building

143 Board may authorize the owner to administer the design and construction of the project instead

144 of the division.

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

146 eligible institution of higher education and commits to build a building or buildings on that

147 land, and the institution agrees to provide funds for the operations and maintenance costs from

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

149 state capital improvement funding, the higher education institution may:

150 (a) oversee and manage the construction without involvement, oversight, or
151 management from the division; or
152 (b) arrange for management of the project by the division.
153 (6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah
154 Uniform Building Standards Act, shall be provided by:
155 (i) the director, for projects administered by the division;
156 (ii) the entity designated by the State Capitol Preservation Board, for projects under
157 Subsection (3)(a);
158 (iii) the local government, for projects exempt from the division's administration under
159 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);
160 (iv) the state entity or local government designated by the State Building Board, for
161 projects under Subsection (4); or
162 (v) the institution, for projects exempt from the division's administration under
163 Subsection (5)(a).
164 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
165 shall be provided by the entity that is acting in this capacity for the balance of the project as
166 provided in Subsection (6)(a).
167 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
168 may:
169 (i) only review plans and inspect construction to enforce the building codes as adopted
170 by the Uniform Building Codes Commission; and
171 (ii) charge a building permit fee of no more than the amount it could have charged if
172 the land upon which the improvements are located were not owned by the state.
173 (d) (i) The use of state property and any improvements constructed on state property,
174 including improvements constructed by nonstate entities, is not subject to the zoning authority
175 of local governments as provided in Section 10-9-105.
176 (ii) The state entity controlling the use of the state property shall consider any input
177 received from the local government in determining how the property shall be used.
178 (7) Before construction may begin, the director shall review the design of projects
179 exempted from the division's administration under Subsection (4) to determine if the design:
180 (a) complies with any restrictions placed on the project by the State Building Board;

181 and

182 (b) is appropriate for the purpose and setting of the project.

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

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

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

189 (d) The State Building Board, in consultation with the director and the State Energy
190 Manager, shall make rules to implement this Subsection (8) by following the procedures and
191 requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

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

195 (9) The director may expend appropriations for statewide projects from funds provided
196 by the Legislature for those specific purposes and within guidelines established by the State
197 Building Board.

198 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
199 shall develop standard forms to present capital development and capital improvement cost
200 summary data.

201 (b) The director shall:

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

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

207 (11) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
208 Act, the director may:

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

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

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

214 (12) (a) The director, his designee, or the state entity to whom control has been
215 designated under Subsection (4), shall notify in writing the elected representatives of local
216 government entities directly and substantively affected by any diagnostic, treatment, parole,
217 probation, or other secured facility project exceeding \$250,000, if:

218 (i) the nature of the project has been significantly altered since prior notification;

219 (ii) the project would significantly change the nature of the functions presently
220 conducted at the location; or

221 (iii) the project is new construction.

222 (b) At the request of either the state entity or the local government entity,
223 representatives from the state entity and the affected local entity shall conduct or participate in
224 a local public hearing or hearings to discuss these issues.

225 (13) (a) (i) Before beginning the construction of student housing on property owned by
226 the state or a public institution of higher education, the director shall provide written notice of
227 the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student
228 housing buildings is within 100 feet of privately owned residential property.

229 (ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body
230 and, if applicable, the mayor of:

231 (A) the county in whose unincorporated area the privately owned residential property is
232 located; or

233 (B) the municipality in whose boundaries the privately owned residential property is
234 located.

235 (b) At the request of a county or municipality that is entitled to notice under Subsection
236 (13)(a), the director and the legislative body of the affected county or municipality shall hold a
237 public hearing to provide information to the public and receive input from the public about the
238 proposed construction.

Fiscal Note
Bill Number HB0103S01

Student Housing Built by Higher Education Institutions

15-Feb-05

3:11 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst