

Representative Jeff Alexander proposes the following substitute bill:

CAPITOL PRESERVATION BOARD

MODIFICATIONS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Jeff Alexander

LONG TITLE

General Description:

This bill modifies provisions relating to the State Capitol Preservation Board.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the State Capitol Preservation Board;
- ▶ establishes an executive committee for the board;
- ▶ provides that the executive committee shall review and provide recommendations to

the board regarding:

- the day to day activities and decisions of the executive director and staff; and
- the executive director's and staff's policies and procedures, performance, and

compensation;

- ▶ provides that the executive committee is exempt from open meetings requirements;
- ▶ modifies provisions relating to selection of a chair for the State Capitol Preservation

Board;

- ▶ modifies provisions relating to membership requirements for advisory subcommittees created by the State Capitol Preservation Board; and

- ▶ establishes procedures for selecting a subcommittee chair.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides an immediate effective date.

29 This bill provides a coordination clause.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63C-9-102**, as last amended by Chapter 76, Laws of Utah 2001

33 **63C-9-201**, as last amended by Chapters 171 and 176, Laws of Utah 2002

34 **63C-9-202**, as last amended by Chapter 171, Laws of Utah 2002

35 **63C-9-301**, as last amended by Chapter 16, Laws of Utah 2003

36 ENACTS:

37 **63C-9-302**, Utah Code Annotated 1953

38 **63C-9-303**, Utah Code Annotated 1953

39

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

41 Section 1. Section **63C-9-102** is amended to read:

42 **63C-9-102. Definitions.**

43 (1) "Board" means the State Capitol Preservation Board created by Section 63C-9-201.

44 (2) "Capitol hill" means the grounds, monuments, parking areas, buildings, and other
45 man-made and natural objects within the area bounded by 300 North Street, Columbus Street,
46 500 North Street, and East Capitol Boulevard, and includes:

47 (a) the White Community Memorial Chapel and its grounds and parking areas, and the
48 Council Hall Travel Information Center building and its grounds and parking areas;

49 (b) the Daughters of the Utah Pioneers building and its grounds and parking areas and
50 other state-owned property included within the area bounded by Columbus Street, North Main
51 Street, and Apricot Avenue;

52 (c) the state-owned property included within the area bounded by Columbus Street,
53 Wall Street, and 400 North Street; and

54 (d) the state-owned property included within the area bounded by Columbus Street,
55 West Capitol Street, and 500 North Street.

56 (3) "Capitol hill facilities" means all of the buildings on capitol hill, and the exterior

57 steps, entrances, streets, parking areas, and other paved areas of capitol hill.

58 (4) "Capitol hill grounds" means the unpaved areas of capitol hill.

59 (5) "Executive committee" means the executive committee of the State Capitol
60 Preservation Board created by Section 63C-9-302.

61 [~~5~~] (6) "Executive director" means the executive director appointed by the board
62 under Section 63C-9-401.

63 Section 2. Section **63C-9-201** is amended to read:

64 **63C-9-201. State Capitol Preservation Board -- Creation -- Membership.**

65 (1) There is created the State Capitol Preservation Board.

66 (2) The board shall consist of the following [~~15~~] nine members:

67 (a) the governor or the governor's designee;

68 (b) the lieutenant governor;

69 (c) the president of the Senate or the president's designee;

70 (d) the speaker of the House of Representatives or the speaker's designee;

71 [~~(e) three members appointed by the governor;~~]

72 [~~(f) two members of the Senate appointed by the president of the Senate, one from the~~
73 ~~majority party and one from the minority party;~~]

74 [~~(g) two members of the House of Representatives appointed by the speaker of the~~
75 ~~House of Representatives, one from the majority party and one from the minority party;~~]

76 (e) the majority leader of the Senate or the majority leader's designee;

77 (f) the minority leader of the Senate or the minority leader's designee;

78 (g) the majority leader of the House of Representatives or the majority leader's
79 designee;

80 (h) the minority leader of the House of Representatives or the minority leader's
81 designee; and

82 [~~(h)~~] (i) the chief justice of the Supreme Court or [~~his~~] the chief justice's designee[;];

83 [~~(i) the director of the Division of Archives; and]~~

84 [~~(j) an architect and a structural engineer, appointed by the governor with the consent~~
85 ~~of the Senate.]~~

86 Section 3. Section **63C-9-202** is amended to read:

87 **63C-9-202. Terms -- Vacancies-- Chair -- Vice chair --Meetings -- Compensation.**

88 ~~[(1) (a) The governor, president of the Senate, and speaker of the House shall serve~~
89 ~~terms coterminous with their term as governor, president, and speaker.]~~

90 ~~[(b) The other members shall serve two-year terms.]~~

91 ~~[(2) Vacancies in the appointed positions shall be filled by the original appointing~~
92 ~~authority for the unexpired term.]~~

93 ~~[(3) (a) Except as provided in Subsection (3)(b), the governor is chair of the board.]~~

94 ~~[(b) When the governor is absent from meetings of the board, the lieutenant governor is~~
95 ~~chair of the board.]~~

96 ~~[(c) The governor shall appoint a member of the board to serve as vice chair with the~~
97 ~~approval of the board.]~~

98 (1) (a) The board, by a majority vote, shall select one of the board members as its chair.

99 (b) The chair's term is one year.

100 ~~[(4)]~~ (2) The board shall meet at least quarterly and at other times at the call of the
101 ~~[governor]~~ chair or at the request of four members of the board.

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

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

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

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

113 ~~[(c)]~~ (b) Legislative members receive the expenses authorized by legislative rule.

114 Section 4. Section **63C-9-301** is amended to read:

115 **63C-9-301. Board powers.**

116 (1) The board shall:

117 (a) except as provided in Subsection (2), exercise complete jurisdiction over capitol
118 hill facilities and capitol hill grounds;

119 (b) preserve, maintain, and restore capitol hill facilities, capitol hill grounds, and their
120 contents;

121 (c) consult with the Division of Facilities Construction and Management, the State
122 Library Division, the Division of Archives and Records Service, the Division of State History,
123 the Office of Museum Services, and the Arts Council when necessary;

124 (d) before October 1 of each year, review and approve the executive director's annual
125 budget request for submittal to the governor and Legislature;

126 (e) by October 1 of each year, prepare and submit a recommended budget request for
127 the upcoming fiscal year for capitol hill to:

128 (i) the governor, through the Governor's Office of Planning and Budget; and

129 (ii) the Legislature's appropriations subcommittee responsible for capital facilities,
130 through the Office of Legislative Fiscal Analyst;

131 (f) review and approve the executive director's:

132 (i) annual work plan;

133 (ii) long-range master plan for the capitol hill facilities and capitol hill grounds; and

134 (iii) furnishings plan for placement and care of objects under the care of the board;

135 (g) approve all changes to the buildings and their grounds, including:

136 (i) restoration, remodeling, and rehabilitation projects;

137 (ii) usual maintenance; and

138 (iii) any transfers or loans of objects under the board's care;

139 (h) define and identify all significant aspects of capitol hill facilities and capitol hill
140 grounds, after consultation with the Division of Facilities Construction and Management, State
141 Library Division, the Division of Archives and Records Service, the Division of State History,
142 the Office of Museum Services, and the Arts Council;

143 (i) inventory, define, and identify all significant contents of the buildings and all
144 state-owned items of historical significance that were at one time in the buildings, after
145 consultation with the Division of Facilities Construction and Management, State Library
146 Division, the Division of Archives and Records Service, the Division of State History, the
147 Office of Museum Services, and the Arts Council;

148 (j) maintain archives relating to the construction and development of the buildings, the
149 contents of the buildings and their grounds, including documents such as plans, specifications,

150 photographs, purchase orders, and other related documents, the original copies of which shall
151 be maintained by the Division of Archives and Records Service;

152 (k) comply with federal and state laws related to program and facility accessibility;
153 ~~[and]~~

154 (l) establish procedures for receiving, hearing, and deciding complaints or other issues
155 raised about the capitol hill facilities, capitol hill grounds, or their use[-]; ~~and~~

156 (m) review and approve the recommendations of the executive committee.

157 (2) Notwithstanding Subsection (1)(a), the supervision and control of the legislative
158 area is reserved to the Legislature.

159 (3) (a) The board shall make rules to govern, administer, and regulate the capitol hill
160 facilities and capitol hill grounds by following the procedures and requirements of Title 63,
161 Chapter 46a, Utah Administrative Rulemaking Act.

162 (b) A person who violates a rule adopted by the board under the authority of this
163 Subsection (3) is guilty of a class C misdemeanor.

164 (c) The board may not apply this section or rules adopted under the authority of this
165 section in a manner that violates a person's rights under the Utah Constitution or the First
166 Amendment to the United States Constitution, including the right of persons to peaceably
167 assemble.

168 (d) The board shall send proposed rules under this section to the legislative general
169 counsel and the governor's general counsel for review and comment before the board adopts the
170 rules.

171 (4) The board is exempt from the requirements of Title 63, Chapter 56, Utah
172 Procurement Code, but shall adopt procurement rules substantially similar to the requirements
173 of that chapter.

174 (5) (a) The board may:

175 (i) establish subcommittees ~~[made up of board members]~~ to assist and support the
176 executive director in accomplishing his duties;

177 (ii) establish fees for the use of capitol hill facilities and grounds;

178 (iii) assign and allocate specific duties and responsibilities to any other state agency, if
179 the other agency agrees to perform the duty or accept the responsibility;

180 (iv) contract with another state agency to provide services;

181 (v) delegate by specific motion of the board, any authority granted to it by this section
182 to the executive director; and

183 (vi) in conjunction with Salt Lake City, expend monies to improve or maintain public
184 property contiguous to East Capitol Boulevard and capitol hill.

185 (b) If a budget subcommittee is established by the board, the Legislative Fiscal Analyst,
186 or the analyst's designee, and the director of the Governor's Office of Planning and Budget, or
187 the director's designee, shall serve as ex officio, nonvoting members of the budget
188 subcommittee.

189 (c) If the board establishes any subcommittees, [~~the board may, by majority vote,
190 appoint up to two people who are not members of the board to serve, at the will of the board, as
191 nonvoting members of a subcommittee.~~] the board shall appoint the members of each
192 subcommittee by a majority vote.

193 (d) The membership of each subcommittee may include members of the board.

194 (e) (i) The board shall, by a majority vote, select a chair for each subcommittee.

195 (ii) The subcommittee chair's term is one year.

196 (6) (a) The board, and the employees of the board, may not move the office of the
197 governor, lieutenant governor, president of the Senate, speaker of the House of
198 Representatives, or a member of the Legislature from the State Capitol Building unless the
199 removal is approved by:

200 (i) the governor, in the case of the governor's office;

201 (ii) the lieutenant governor, in the case of the lieutenant governor's office;

202 (iii) the president of the Senate, in the case of the president's office or the office of a
203 member of the Senate; or

204 (iv) the speaker of the House of Representatives, in the case of the speaker's office or
205 the office of a member of the House.

206 (b) The board and the employees of the board have no control over the furniture,
207 furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the
208 members of the Legislature except as necessary to inventory or conserve items of historical
209 significance owned by the state.

210 (c) The board and the employees of the board have no control over records and
211 documents produced by or in the custody of a state agency, official, or employee having an

212 office in a building on capitol hill.

213 (d) Except for items identified by the board as having historical significance, and
214 except as provided in Subsection (6)(b), the board and the employees of the board have no
215 control over moveable furnishings and equipment in the custody of a state agency, official, or
216 employee having an office in a building on capitol hill.

217 Section 5. Section **63C-9-302** is enacted to read:

218 **63C-9-302. Executive committee -- Meetings.**

219 (1) The following individuals shall constitute the executive committee for the State
220 Capitol Preservation Board:

221 (a) the governor;

222 (b) the president of the Senate; and

223 (c) the speaker of the House of Representatives.

224 (2) The executive committee shall meet as necessary and may:

225 (a) set an established meeting schedule upon the majority vote of the members of the
226 executive committee;

227 (b) meet upon the request of two members of the executive committee; and

228 (c) meet upon the request of the executive director.

229 (3) The executive committee shall be exempt from the requirements of Title 52,
230 Chapter 4, Open and Public Meetings.

231 Section 6. Section **63C-9-303** is enacted to read:

232 **63C-9-303. Executive committee -- Powers and duties.**

233 The executive committee shall review and make recommendations to the board
234 regarding:

235 (1) the day to day operations, decisions, spending, and schedule of the executive
236 director and staff;

237 (2) the executive director's annual performance;

238 (3) the executive director's suggestions for staff, including staff duties, performance,
239 compensation, and personnel; and

240 (4) the policies and procedures governing the executive director and staff, including
241 those procedures governing performance review, compensation, and bonuses.

242 Section 7. **Effective date.**

243 If approved by two-thirds of all the members elected to each house, this bill takes effect
244 upon approval by the governor, or the day following the constitutional time limit of Utah
245 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
246 the date of veto override.

247 Section 8. **Coordinating H.B. 291 with S.B. 163.**

248 If this H.B. 291 and S.B. 163, Capitol Preservation Amendments, both pass:

249 (1) Section 63C-9-201 of this bill supercedes Section 63C-9-201 of S.B. 163;

250 (2) Section 63C-9-202 of this bill supercedes Section 63C-9-202 of S.B. 163;

251 (3) Subsection 63C-9-301(5) of this H.B. 291 supercedes Subsection 63C-9-301(5) of
252 S.B. 163; and

253 (4) Section 63C-9-401 shall read as follows:

254 "The board shall appoint an executive director to assist the board in performing the
255 board's duties under this chapter."