

**VETERANS' NURSING HOME
AUTHORIZATION AND FUNDING**

2005 FIRST SPECIAL SESSION

STATE OF UTAH

Sponsor: D. Gregg Buxton

Gregory H. Hughes

LONG TITLE

General Description:

This bill authorizes the issuance of general obligation bonds for a Veterans' Nursing Home in Ogden and makes technical changes to the Veterans' Code to authorize more than one nursing home in the state.

Highlighted Provisions:

This bill:

- ▶ modifies the Bonding Code by authorizing the issuance and sale of general obligation bonds by the State Bonding Commission for construction of a Veterans' Nursing Home in Ogden;
- ▶ specifies the use of the general obligation bond proceeds and the manner of issuance;
- ▶ provides expressions of legislative intent;
- ▶ modifies language in the Veterans' Nursing Home Act to authorize more than one nursing home within the state; and
- ▶ repeals the authorization for construction of a Veterans' Nursing Home in Ogden on December 31, 2006.

Monies Appropriated in this Bill:

None

Other Special Clauses:



This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

63-55b-163 (Effective 07/01/05), as last amended by Chapter 169, Laws of Utah 2005

71-11-2, as last amended by Chapter 134, Laws of Utah 2000

71-11-3, as last amended by Chapter 134, Laws of Utah 2000

71-11-4, as last amended by Chapter 134, Laws of Utah 2000

71-11-5, as last amended by Chapter 134, Laws of Utah 2000

71-11-6, as last amended by Chapter 134, Laws of Utah 2000

71-11-7, as last amended by Chapter 134, Laws of Utah 2000

71-11-8, as last amended by Chapter 256, Laws of Utah 2002

71-11-9, as last amended by Chapter 256, Laws of Utah 2002

71-11-10, as enacted by Chapter 217, Laws of Utah 1995

ENACTS:

63B-14-101, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section **63-55b-163 (Effective 07/01/05)** is amended to read:

63-55b-163 (Effective 07/01/05). Repeal dates, Title 63 to Title 63B.

(1) Section 63-38a-105 is repealed July 1, 2007.

(2) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.

(3) Section 63A-1-110 is repealed July 1, 2006.

(4) Title 63A, Chapter 6, Part 1, Division of Information Technology Services, is repealed on July 1, 2006.

(5) Section 63B-14-101 is repealed December 31, 2006.

Section 2. Section **63B-14-101** is enacted to read:

63B-14-101. Capital facilities bonds -- Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this section may not exceed \$4,600,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide

funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL DEVELOPMENT PROJECTS

<u>Project</u>	<u>Estimated</u> <u>Operations</u> <u>and</u> <u>Maintenance</u>	<u>Project</u> <u>Amount</u> <u>Funded</u>
<u>-----</u>	<u>-----</u>	<u>-----</u>
<u>Veterans' Nursing Home -</u>		
<u>Ogden</u>	<u>\$0</u>	<u>\$4,500,000</u>
<u>TOTAL CAPITAL</u>		
<u>DEVELOPMENT</u>		
<u>PROJECTS</u>		<u>\$4,500,000</u>

TOTAL GENERAL OBLIGATION BOND AUTHORIZATION

<u>FOR CAPITAL DEVELOPMENT PROJECTS</u>	<u>\$4,500,000</u>
---	--------------------

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

90 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
91 constitute a limitation on the amount that may be expended for the project.

92 (b) The commission, by resolution and in consultation with the board, may delete the
93 project if the inclusion of that project could be construed to violate state law or federal law or
94 regulation.

95 (4) (a) The division may enter into agreements related to the project before the receipt
96 of proceeds of bonds issued under this chapter.

97 (b) The division shall make those expenditures from unexpended and unencumbered
98 building funds already appropriated to the Capital Projects Fund.

99 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
100 of bonds issued under this chapter.

101 (d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for
102 expenditures for costs of the projects listed in Subsection (2)(c).

103 (5) It is the intent of the Legislature that the funding authorized for projects in
104 Subsection (2) include no funds for public art.

105 (6) It is the intent of the Legislature that the State Bonding Commission may not issue
106 bonds for the Veterans' Nursing Home in Ogden until the State Bonding Commission receives
107 a letter from the adjutant general of the National Guard certifying that federal funds for the
108 Veterans' Nursing Home in Ogden have been authorized, approved, and are available for
109 expenditure.

110 Section 3. Section **71-11-2** is amended to read:

111 **71-11-2. Definitions.**

112 As used in this chapter:

113 (1) "Administrator" means ~~[the]~~ a Veterans' Nursing Home Administrator selected in
114 accordance with Section 71-11-5.

115 (2) "Board" means ~~[the]~~ any Veterans' Nursing Home Advisory Board.

116 (3) "Department" means the Utah National Guard.

117 (4) "Division" means the Division of Veterans' Affairs created in Section 71-8-2.

118 (5) "Executive Director" means the adjutant general of the National Guard.

119 (6) "Home" means ~~[the]~~ any Utah Veterans' Nursing Home ~~[as established under this~~
120 chapter].

(7) "Veteran" shall have the same meaning as found in Subsection 71-10-1(5).

Section 4. Section **71-11-3** is amended to read:

71-11-3. Establishment and construction -- Compliance with federal requirements.

(1) ~~[There is established a Utah Veterans' Nursing Home, to be administered by the division to provide nursing home care for veterans in Utah]~~ The division shall administer veterans' nursing homes established by the Legislature.

(2) ~~[The]~~ Each home shall:

(a) have at least an 80-bed capacity;

(b) be designed and constructed consistent with the requirements for federal funding under 38 U.S.C. Sec. 8131 et seq.; and

(c) be operated consistent with the requirements for per diem payments from the United States Department of Veterans Affairs under 38 U.S.C. Sec. 1741 et seq.

Section 5. Section **71-11-4** is amended to read:

71-11-4. Administration by Division of Veterans' Affairs.

The division shall ~~[be responsible for the supervision and operation of the]~~ supervise and operate each veterans' nursing home.

Section 6. Section **71-11-5** is amended to read:

71-11-5. Operation of home -- Rulemaking authority -- Selection of director.

(1) The division shall, subject to the approval of the executive director:

(a) establish appropriate criteria for the admission and discharge of residents for each home, subject to the requirements in Section 71-11-6 and criteria set by the U.S. Department of Veterans' Affairs;

(b) establish a schedule of charges for ~~[residence]~~ each home in cases where residents have available resources;

(c) establish standards for the operation of the ~~[home]~~ homes not inconsistent with standards set by the United States Department of Veterans Affairs;

(d) make rules to implement this chapter in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

(e) ensure that the ~~[home is]~~ homes are licensed in accordance with Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).

(2) ~~[In addition, the]~~ The division shall, after reviewing recommendations of the board, appoint an administrator for ~~[the]~~ each home.

Section 7. Section **71-11-6** is amended to read:

71-11-6. Eligibility -- Admission requirements.

(1) Application for admission shall be made separately to ~~[the]~~ each nursing home administrator.

(2) Veterans and their spouses or surviving spouses who are residents of Utah and in need of nursing home care may be admitted to ~~[the]~~ any home.

(3) Preference shall be given to veterans who are without adequate means of support and unable, due to wounds, disease, old age, or infirmity, to properly maintain themselves.

Section 8. Section **71-11-7** is amended to read:

71-11-7. Veterans' Nursing Home Advisory Board.

(1) (a) ~~[There is created]~~ Each home shall have a Veterans' Nursing Home Advisory Board to act as a liaison between the residents, members of the public, and the administration of the home.

(b) The board shall ~~[be responsible for interviewing]~~ interview candidates for the position of nursing home administrator and ~~[making]~~ make a recommendation to the division.

(2) ~~[The]~~ Each board shall consist of the following seven members:

(a) one resident of the home appointed by the governor;

(b) two members of the Veterans' Advisory Council, designated by the governor, one of which shall specifically be designated as the board's representative to the council;

(c) one veteran ~~[at-large]~~ from the area in which the home is located appointed by the governor;

(d) one representative from the VA Health Care System, appointed by its director;

(e) ~~[a]~~ one representative from the Department of Health, appointed by its executive director; and

(f) one representative from the Department of Veterans' Affairs regional office.

(3) (a) (i) Members shall serve for four-year terms.

(ii) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new or reappointed member to a four-year term ~~[commencing]~~ beginning on July 1.

(b) ~~[Notwithstanding the requirements of Subsection (3)(a), the]~~ 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.

(c) The governor shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.

(4) Vacancies shall be filled by the governor within 60 days of receiving notice of a vacancy, but only for the unexpired term of the vacated member.

(5) (a) ~~[Members]~~ Except as provided in Subsection (5)(b), members may not serve more than two consecutive terms.

(b) Members appointed by the VA Health Care System and the Department of Veterans' Affairs are exempt from the term limit requirement.

(6) ~~[The]~~ Each board shall elect a chair annually from among its members at its first meeting after July 1.

(7) ~~[The]~~ Each board shall meet at least quarterly.

(8) Four members of the board constitute a quorum for the transaction of business.

(9) ~~[The]~~ Each board shall provide copies of all minutes and an annual report of its activities by June 30 of each year to the adjutant general of the National Guard, the Division of Veterans' Affairs, and the Veterans' Advisory Council.

(10) (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) 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.

Section 9. Section **71-11-8** is amended to read:

71-11-8. Utah Veterans' Nursing Home Fund.

(1) There is created a restricted special revenue fund entitled the "Utah Veterans'

Nursing Home Fund" to be administered by the division for the benefit of ~~[the]~~ each home and its residents.

(2) All cash donations, gifts, or bequests shall be deposited in the fund and used according to the wishes of the donor.

(3) All funds received by the ~~[home]~~ homes from federal or state agencies, individual insurance reimbursement, or cash payments shall be deposited in the fund.

(4) Funds received that are designated for a specific home shall be accounted for separately within the fund.

Section 10. Section **71-11-9** is amended to read:

71-11-9. Disposition of deceased resident's property.

(1) (a) All money or other personal property of a resident held by ~~[the]~~ a home ~~[which]~~ that is left on the premises of the home shall, upon the death of the resident, be held in trust to be paid or delivered to the spouse, children, grandchildren, or parent of the resident upon the presentation of proof of relationship.

(b) Any funds of a deceased resident may be disbursed for the payment of funeral expenses or any obligation owed to the home.

(2) Property owned by a deceased resident of the home who dies without heirs or next-of-kin not disposed of by will shall become the property of the home and deposited in the fund, subject to the right of any heir to reclaim the property within five years after the resident's death upon the presentation of proof of relationship.

Section 11. Section **71-11-10** is amended to read:

71-11-10. Hobby promotion -- Sales of articles manufactured by residents -- Proceeds to residents.

(1) ~~[The]~~ Each home shall promote hobbies designed to improve the general welfare and mental condition of the residents.

(2) The home may provide limited funds to initiate a hobby program, but shall limit the program to those hobbies that, in its judgment, will be self-sustaining.

(3) The office may enter into contracts with federal or state agencies or private concerns for the receipt of articles manufactured by residents of the ~~[home]~~ homes.

(4) Proceeds generated by hobbies shall be used to pay for materials. Any excess proceeds shall be paid to the individual veterans who produced the articles.

245 Section 12. **Legislative intent.**

246 It is the intent of the Legislature to provide funding for a full-time employee in state
247 government to administer the Veterans' Nursing Home in Ogden once the nursing home is
248 constructed and ready for patients.

249 Section 13. **Effective date.**

250 If approved by two-thirds of all the members elected to each house, this bill takes effect
251 upon approval by the governor, or the day following the constitutional time limit of Utah
252 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
253 the date of veto override, except that Section 63-55b-163 (Effective 07/01/05) takes effect on
254 July 1, 2005.

Legislative Review Note
as of 4-15-05 8:30 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel