

1 **TRANSPORTATION MAINTENANCE FACILITIES**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: J. Stuart Adams**

5 House Sponsor: Gage Froerer

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Administrative Services Code and the Transportation Code
10 by amending provisions relating to the exchange or sale of real property for
11 transportation maintenance facilities.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that legislative approval is not required for capital development projects to
15 be built for the Department of Transportation as a result of a sale or exchange of
16 real property from a maintenance facility if the real property is exchanged for, or the
17 proceeds from the sale of the real property are used for, another maintenance
18 facility, including improvements for a maintenance facility and real property;

19 ▶ provides that when the Department of Transportation approves a sale or exchange, it
20 shall notify the president of the Senate, the speaker of the House, and the cochairs
21 of the Capital Facilities and Administrative Services Subcommittee of the
22 Legislature's Joint Appropriation Committee about any new facilities to be built or
23 improved under this exemption;

24 ▶ provides that proceeds from the sale of real property or an interest in real property
25 from a maintenance facility may be used by the Department of Transportation for
26 the purchase or improvement of another maintenance facility; and

27 ▶ makes technical changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **63A-5-104**, as last amended by Laws of Utah 2011, Chapters 219 and 409

35 **72-5-111**, as last amended by Laws of Utah 2008, Chapter 3



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

38 Section 1. Section **63A-5-104** is amended to read:

39 **63A-5-104. Definitions -- Capital development and capital improvement process**

40 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

41 (1) As used in this section:

42 (a) "Capital developments" means a:

43 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

44 (ii) new facility with a construction cost of \$500,000 or more; or

45 (iii) purchase of real property where an appropriation is requested to fund the purchase.

46 (b) "Capital improvements" means a:

47 (i) remodeling, alteration, replacement, or repair project with a total cost of less than

48 \$2,500,000;

49 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

50 (iii) new facility with a total construction cost of less than \$500,000.

51 (c) (i) "New facility" means the construction of a new building on state property

52 regardless of funding source.

53 (ii) "New facility" includes:

54 (A) an addition to an existing building; and

55 (B) the enclosure of space that was not previously fully enclosed.

56 (iii) "New facility" does not mean:

57 (A) the replacement of state-owned space that is demolished or that is otherwise

58 removed from state use, if the total construction cost of the replacement space is less than
59 \$2,500,000; or

60 (B) the construction of facilities that do not fully enclose a space.

61 (d) "Replacement cost of existing state facilities" means the replacement cost, as
62 determined by the Division of Risk Management, of state facilities, excluding auxiliary
63 facilities as defined by the State Building Board.

64 (e) "State funds" means public money appropriated by the Legislature.

65 (2) The State Building Board, on behalf of all state agencies, commissions,
66 departments, and institutions shall submit its capital development recommendations and
67 priorities to the Legislature for approval and prioritization.

68 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
69 project may not be constructed on state property without legislative approval.

70 (b) Legislative approval is not required for a capital development project that consists
71 of the design or construction of a new facility if the State Building Board determines that:

72 (i) the requesting state agency, commission, department, or institution has provided
73 adequate assurance that:

74 (A) state funds will not be used for the design or construction of the facility; and

75 (B) the state agency, commission, department, or institution has a plan for funding in
76 place that will not require increased state funding to cover the cost of operations and
77 maintenance to, or state funding for, immediate or future capital improvements to the resulting
78 facility; and

79 (ii) the use of the state property is:

80 (A) appropriate and consistent with the master plan for the property; and

81 (B) will not create an adverse impact on the state.

82 (c) (i) The Division of Facilities Construction and Management shall maintain a record
83 of facilities constructed under the exemption provided in Subsection (3)(b).

84 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state
85 agency, commission, department, or institution may not request:

- 86 (A) increased state funds for operations and maintenance; or
87 (B) state capital improvement funding.
88 (d) Legislative approval is not required for:
89 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds
90 that has been approved by the State Building Board;
91 (ii) a facility to be built with nonstate funds and owned by nonstate entities within
92 research park areas at the University of Utah and Utah State University;
93 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation
94 with funds of the foundation, including grant money from the state, or with donated services or
95 materials;
96 (iv) a capital project that:
97 (A) is funded by:
98 (I) the Uintah Basin Revitalization Fund; or
99 (II) the Navajo Revitalization Fund; and
100 (B) does not provide a new facility for a state agency or higher education institution; or
101 (v) a capital project on school and institutional trust lands that is funded by the School
102 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
103 does not fund construction of a new facility for a state agency or higher education institution.
104 (e) (i) Legislative approval is not required for capital development projects to be built
105 for the Department of Transportation;
106 (A) as a result of an exchange of real property under Section 72-5-111[-]; or
107 (B) as a result of a sale or exchange of real property from a maintenance facility if the
108 real property is exchanged for, or the proceeds from the sale of the real property are used for,
109 another maintenance facility, including improvements for a maintenance facility and real
110 property.
111 (ii) When the Department of Transportation approves [~~those exchanges~~] a sale or
112 exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the
113 House, and the cochairs of the Capital Facilities and Administrative Services Subcommittee of

114 the Legislature's Joint Appropriation Committee about any new facilities to be built or
115 improved under this exemption.

116 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,
117 departments, and institutions shall by January 15 of each year, submit a list of anticipated
118 capital improvement requirements to the Legislature for review and approval.

119 (ii) The list shall identify:

120 (A) a single project that costs more than \$1,000,000;

121 (B) multiple projects within a single building or facility that collectively cost more than
122 \$1,000,000;

123 (C) a single project that will be constructed over multiple years with a yearly cost of
124 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

125 (D) multiple projects within a single building or facility with a yearly cost of
126 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

127 (E) a single project previously reported to the Legislature as a capital improvement
128 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost
129 more than \$1,000,000; and

130 (F) multiple projects within a single building or facility previously reported to the
131 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
132 costs or scope of work, will now cost more than \$1,000,000.

133 (b) Unless otherwise directed by the Legislature, the State Building Board shall
134 prioritize capital improvements from the list submitted to the Legislature up to the level of
135 appropriation made by the Legislature.

136 (c) In prioritizing capital improvements, the State Building Board shall consider the
137 results of facility evaluations completed by an architect/engineer as stipulated by the building
138 board's facilities maintenance standards.

139 (d) The State Building Board may require an entity that benefits from a capital
140 improvement project to repay the capital improvement funds from savings that result from the
141 project.

142 (e) The State Building Board may provide capital improvement funding to a single
143 project, or to multiple projects within a single building or facility, even if the total cost of the
144 project or multiple projects is \$2,500,000 or more, if:

145 (i) the capital improvement project or multiple projects require more than one year to
146 complete; and

147 (ii) the Legislature has affirmatively authorized the capital improvement project or
148 multiple projects to be funded in phases.

149 (5) The Legislature may authorize:

150 (a) the total square feet to be occupied by each state agency; and

151 (b) the total square feet and total cost of lease space for each agency.

152 (6) (a) Except as provided in Subsection (6)(b) or (c), the Legislature may not fund the
153 design or construction of any new capital development projects, except to complete the funding
154 of projects for which partial funding has been previously provided, until the Legislature has
155 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

156 (b) (i) As used in this Subsection (6)(b):

157 (A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

158 (B) "General Fund budget deficit" is as defined in Section 63J-1-312.

159 (ii) If the Legislature determines that an Education Fund budget deficit or a General
160 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount
161 appropriated to capital improvements to 0.9% of the replacement cost of state buildings.

162 (c) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,
163 2009-10, 2010-11, and 2011-12 fiscal years.

164 (7) (a) If, after approval of capital development and capital improvement priorities by
165 the Legislature under this section, emergencies arise that create unforeseen critical capital
166 improvement projects, the State Building Board may, notwithstanding the requirements of Title
167 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
168 those projects.

169 (b) The State Building Board shall report any changes it makes in capital improvement

170 allocations approved by the Legislature to:

171 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

172 (ii) the Legislature at its next annual general session.

173 (8) (a) The State Building Board may adopt a rule allocating to institutions and
174 agencies their proportionate share of capital improvement funding.

175 (b) The State Building Board shall ensure that the rule:

176 (i) reserves funds for the Division of Facilities Construction and Management for
177 emergency projects; and

178 (ii) allows the delegation of projects to some institutions and agencies with the
179 requirement that a report of expenditures will be filed annually with the Division of Facilities
180 Construction and Management and appropriate governing bodies.

181 (9) It is the intent of the Legislature that in funding capital improvement requirements
182 under this section the General Fund be considered as a funding source for at least half of those
183 costs.

184 Section 2. Section **72-5-111** is amended to read:

185 **72-5-111. Disposal of real property.**

186 (1) (a) If the department determines that any real property or interest in real property,
187 acquired for a highway purpose, is no longer necessary for the purpose, the department may
188 lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.

189 (b) (i) Real property may be sold at private or public sale.

190 (ii) Except as provided in Subsection (1)(c) related to exchanges and Subsection (1)(d)
191 related to the proceeds of any sale of real property from a maintenance facility, proceeds of any
192 sale shall be deposited with the state treasurer and credited to the Transportation Fund.

193 (c) If approved by the commission, real property or an interest in real property may be
194 exchanged by the department for other real property or interest in real property, including
195 improvements, for highway purposes.

196 (d) Proceeds from the sale of real property or an interest in real property from a
197 maintenance facility may be used by the department for the purchase or improvement of

198 another maintenance facility, including real property.

199 (2) (a) In the disposition of real property at any private sale, first consideration shall be
200 given to the original grantor or the original grantor's heirs.

201 (b) Notwithstanding the provisions of Section 78B-6-521, if no portion of a parcel of
202 real property acquired by the department is used for transportation purposes, then the original
203 grantor or the grantor's heirs shall be given the opportunity to repurchase the parcel of real
204 property at the department's original purchase price from the grantor.

205 (c) In accordance with Section 72-5-404, this Subsection (2) does not apply to property
206 rights acquired in proposed transportation corridors using funds from the Transportation
207 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

208 (3) (a) Any sale, exchange, or disposal of real property or interest in real property made
209 by the department under this section, is exempt from the mineral reservation provisions of Title
210 65A, Chapter 6, Mineral Leases.

211 (b) Any deed made and delivered by the department under this section without specific
212 reservations in the deed is a conveyance of all the state's right, title, and interest in the real
213 property or interest in the real property.