

Representative Brad R. Wilson proposes the following substitute bill:

PRISON RELOCATION AND DEVELOPMENT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill addresses the relocation of the state prison, including the development of the former prison land.

Highlighted Provisions:

This bill:

▶ modifies provisions relating to the Prison Relocation and Development Authority;

▶ modifies the duties and responsibilities of the authority;

▶ establishes a process for the authority to issue a request for proposals for a new prison development project, former prison land development project, or master development project, receive and evaluate proposals, and make a recommendation to the Legislature and governor;

▶ provides requirements for a request for proposals and for proposals;

▶ enacts a provision relating to compensation and expenses of authority members; and

▶ enacts a provision relating to authority members' ethics and conflicts of interest.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.



26 This bill provides revisor instructions.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63C-13-102**, as enacted by Laws of Utah 2011, Chapter 408

30 **63C-13-103**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 4

31 **63C-13-105**, as enacted by Laws of Utah 2011, Chapter 408

32 ENACTS:

33 **63C-13-104.3**, Utah Code Annotated 1953

34 **63C-13-104.7**, Utah Code Annotated 1953

35 **63C-13-107**, Utah Code Annotated 1953

36 **63C-13-108**, Utah Code Annotated 1953

37 REPEALS:

38 **63C-13-104**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 4

39 **Utah Code Sections Affected by Revisor Instructions:**

40 **63C-13-104.7**, Utah Code Annotated 1953



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

43 Section 1. Section **63C-13-102** is amended to read:

44 **63C-13-102. Definitions.**

45 As used in this chapter:

46 (1) "Authority" means the Prison Relocation and Development Authority, created in
47 Section 63C-13-103.

48 [~~(2) "Prison relocation project" means a project or potential project to relocate the state
49 prison to another suitable location in the state in order to allow private development of the land
50 on which the state prison is presently located, subject to applicable local land use and other
51 ordinances.]~~

52 (2) "Division" means the Division of Facilities Construction and Management created
53 in Section 63A-5-201.

54 (3) "Former prison" means the state prison operating as of February 1, 2013 in Salt
55 Lake County.

56 (4) "Former prison land" means all the land owned or controlled by the state on which

57 the former prison is located or that is contiguous to and surrounding the former prison,
 58 including land owned by the Utah Department of Transportation but not used by the Utah
 59 Department of Transportation for a right-of-way.

60 (5) "Former prison land development project" means a project to develop the former
 61 prison land, including:

62 (a) the transfer of the former prison land into private ownership; and

63 (b) the demolition of the former prison after it is vacated.

64 (6) "Master development project" means a former prison land development project and
 65 a new prison development project.

66 (7) "New prison" means a prison to be built to replace the former prison.

67 (8) "New prison development project":

68 (a) means a project to construct a new prison at a suitable location in the state other
 69 than the location of the former prison; and

70 (b) includes the land on which the new prison will be built.

71 (9) "New prison land" means land on which a new prison is or is projected to be built.

72 (10) "Prison programming" means a policy, plan, or program that is calculated to
 73 reduce recidivism or lead to greater efficiencies or lower costs in prison operations.

74 Section 2. Section **63C-13-103** is amended to read:

75 **63C-13-103. Creation of Prison Relocation and Development Authority --**

76 **Members.**

77 (1) There is created a prison relocation and development authority.

78 (2) (a) The authority consists of 11 members.

79 (b) [~~Two members~~] One member of the authority shall be appointed by the legislative
 80 body of the municipality in [~~whose boundary the prison property is presently located~~] which the
 81 former prison is located.

82 (c) [~~Four~~] Six members of the authority shall be appointed by the governor.

83 [~~(d) One member shall be appointed by the Utah Association of Counties.~~]

84 [~~(e)~~] (d) Two members shall be members of the Senate appointed by the president of
 85 the Senate.

86 [~~(f)~~] (e) Two members shall be members of the House of Representatives appointed by
 87 the speaker of the House of Representatives.

88 (3) Any vacancy shall be filled in the same manner under this section as the
89 appointment of the member whose vacancy is being filled.

90 (4) Each member of the authority shall serve until a successor is duly appointed and
91 qualified.

92 (5) A member may not receive compensation for service on the authority.

93 (6) A majority of members present at a meeting constitutes a quorum.

94 (7) An authority member appointed before the effective date of this section may not
95 continue to serve on the authority unless the member is reappointed on or after the effective
96 date of this section as provided in Subsection (2).

97 Section 3. Section **63C-13-104.3** is enacted to read:

98 **63C-13-104.3. Authority duties and responsibilities.**

99 (1) The authority shall:

100 (a) consult with the division in formulating a request for proposals under Subsection
101 (1)(b):

102 (b) with the approval of the director of the division and the written approval of the
103 governor, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a
104 request for proposals inviting persons to submit proposals on a new prison development
105 project, former prison land development project, or master development project;

106 (c) provide a process for persons to submit proposals and for the authority to receive
107 proposals;

107a **H→ (d) hold at least one public hearing in the municipality within which the former prison**
107b **is located to receive public comment on proposals on a former prison land development**
107c **project;**

107d **(e) hold at least one public hearing in each location where a new prison is proposed to**
107e **be located under proposals on a new prison development project;**

108 ~~[(d)]~~ **(f) ←H** evaluate the proposals that are submitted;

109 **H→ [(e)] (g) ←H** in evaluating and making a decision on proposals, give additional
109a weight to a

110 proposal that contemplates using contractors, material providers, and laborers from within the
111 state;

112 **H→ [(f)] (h) ←H** decide whether to recommend that one of the proposals or a
112a combination of

113 proposals for a new prison development project, former prison land development project, or
114 master development project be accepted and that a contract be awarded to the person or persons
115 who submitted the proposal or combination of proposals; and

116 **H→ [(g)] (i) ←H** if the authority decides to recommend a proposal or combination of
116a proposals for

117 awarding a contract for a new prison development project, former prison land development

118 project, or master development project to the person or persons who submitted the proposal or

119 combination of proposals, submit its written recommendation to the governor and the
 120 Legislative Management Committee.

121 (2) The authority may appoint one or more subcommittees of its members to act on
 122 matters within the authority's duties and responsibilities, but any action of a subcommittee is
 123 subject to the authority's approval.

124 Section 4. Section **63C-13-104.7** is enacted to read:

125 **63C-13-104.7. Request for proposals process.**

126 (1) The authority shall hold its first meeting to initiate the process of formulating a
 127 request for proposals no later than:

128 (a) April 15, 2013, if this section takes effect on or before March 25, 2013; or

129 (b) June 15, 2013, if this section takes effect after March 25, 2013.

130 (2) (a) In a request for proposals under Subsection 63C-13-104.3(1)(b), the authority
 131 shall request offerors to include a proposed conceptual plan.

132 (b) A conceptual plan included in a proposal may incorporate some or all of the
 133 features of a general plan described in Title 10, Chapter 9a, Part 4, General Plan.

134 (c) A proposed conceptual plan included in a proposal submitted under this part is a
 135 public record.

136 (3) (a) A request for proposals for a new prison development project:

137 (i) may include a request for prison programming proposals; and

138 (ii) ~~H→ [shall] may not ←H~~ allow an offeror to include, as part of the proposal, the
 138a ~~H→ private ←H~~ operation of the new
 139 prison.

140 (b) A person submitting a proposal for a new prison development project may include,
 141 as part of the proposal ~~H→ [:]~~

142 ~~[(i)] , ←H prison programming proposals ~~H→ [:]~~ .~~

143 ~~[(ii) the operation of a new prison; or~~

144 ~~[(iii) prison programming proposals and the operation of a new prison.]~~

144a **(c) A person submitting a proposal for a new prison development project may not**
 144b **include a proposal that the new prison be privately operated. ←H**

145 (4) A proposal submitted in response to a request for proposals under Subsection
 146 63C-13-104.3(1)(b) shall identify and quantify sources of funds that the proposal relies on for
 147 its financial feasibility, including identifying and quantifying which of the following possible
 148 sources of funds the proposal relies on:

149 (a) money derived from the sale of the former prison land;

150 (b) savings realized from funds that had been intended for maintenance and upkeep of
151 the former prison but that will not be spent on the former prison due to the construction of a
152 new prison;

153 (c) the amount of future construction costs anticipated to be spent for prison facilities
154 but that will not be spent due to the construction of a new prison;

155 (d) reductions in future years' budgets of the Department of Corrections that equal the
156 savings realized due to greater efficiencies in the operation of a new prison over the anticipated
157 cost of operating the former prison;

158 (e) proceeds from the issuance of bonds;

159 (f) legislative appropriations;

160 (g) financing provided by the developer; and

161 (h) any other source of funds that the offeror proposes to be made available in order to
162 implement the new prison development project, former prison land development project, or
163 master development project.

164 (5) (a) In issuing a request for proposals under Subsection 63C-13-104.3(1)(b), the
165 authority shall request persons submitting proposals to:

166 (i) specify and quantify which sources of funds the proposal relies on for its financial
167 feasibility;

168 (ii) identify any changes in state law the offeror recommends be made in order to
169 facilitate the implementation of the new prison development project, former prison land
170 development project, or master development project; and

171 (iii) comply with all other requirements of the request for proposals.

172 (b) Recommended changes to state law that a proposal identifies under Subsection
173 (5)(a)(ii) are for informational purposes only, and the authority may not give more or less
174 weight to a proposal based on any recommended changes it contains or does not contain.

175 (6) A contract may not be awarded for a new prison development project, former
176 prison land development project, or master development project unless the governor and
177 Legislature indicate their approval, through the adoption of a concurrent resolution or other
178 legislation indicating approval, of the feasibility, overall cost, cost-effectiveness, and concepts
179 involved in the new prison development project, former prison land development project, or
180 master development project, as set forth in the recommended proposal or combination of

181 proposals.

182 (7) The former prison land may not be sold, exchanged, leased, or made subject to an
183 option without the prior approval of the Legislature and governor.

184 Section 5. Section **63C-13-105** is amended to read:

185 **63C-13-105. Authority staff and expenses.**

186 (1) The Governor's Office of Planning and Budget shall:

187 [(1)] (a) provide any necessary staff support for the authority until the authority hires
188 its own staff; and

189 [(2)] (b) cover authority expenses.

190 (2) The authority may hire employees, including contract employees and a chief
191 administrative officer.

192 Section 6. Section **63C-13-107** is enacted to read:

193 **63C-13-107. Compensation and expenses of authority members.**

194 (1) Salaries and expenses of authority members who are legislators shall be paid in
195 accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and
196 Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto
197 Override Sessions.

198 (2) An authority member who is not a legislator may not receive compensation or
199 benefits for the member's service on the authority, but may receive per diem and
200 reimbursement for travel expenses incurred as an authority member at the rates established by
201 the Division of Finance under:

202 (a) Sections 63A-3-106 and 63A-3-107; and

203 (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
204 63A-3-107.

205 Section 7. Section **63C-13-108** is enacted to read:

206 **63C-13-108. Authority member ethics and conflicts of interest.**

207 (1) An authority member is subject to Title 67, Chapter 16, Utah Public Officers' and
208 Employees' Ethics Act.

209 (2) An individual may not be appointed to the authority if the individual:

210 (a) has an ownership interest in or is an officer or employee of an entity that:

211 (i) anticipates submitting a proposal or submits a proposal for a new prison

212 development project, former prison land development project, or master development project;
213 or

214 (ii) anticipates providing material or labor under a contract awarded pursuant to a
215 proposal for a new prison development project, former prison land development project, or
216 master development project;

217 (b) has a spouse, child, parent, or sibling who has an ownership interest in or is an
218 officer or employee of an entity described in Subsection (2)(a); or

219 (c) has a direct or indirect interest in or derives or will derive any direct or indirect
220 financial benefit from any work done in pursuit of a new prison development project, former
221 prison land development project, or master development project.

222 (3) An authority member may not accept a gift, gratuity, emolument, or employment
223 from any person that has a direct or indirect interest in or will derive any direct or indirect
224 financial benefit from any work performed as part of a new prison development project, former
225 prison land development project, or master development project.

226 (4) An authority member may not continue to serve on the authority and shall resign
227 the member's position on the authority if a circumstance described in Subsection (2) occurs or
228 is discovered after the member's appointment that, had it occurred or been discovered before
229 appointment, would have prohibited the member from being appointed to the authority.

230 **Section 8. Repealer.**

231 This bill repeals:

232 **Section 63C-13-104, Authority duties.**

233 **Section 9. Effective date.**

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

238 **Section 10. Revisor instructions.**

239 The Legislature intends that the Office of Legislative Research and General Counsel, in
240 preparing the Utah Code database for publication:

241 (1) revise Subsection 63C-13-104.7(1) to read:

242 (a) if the actual effective date of this bill is March 25, 2013 or earlier, "(1) The

243 authority shall hold its first meeting to initiate the process of formulating a request for
244 proposals no later than April 15, 2013."; or

245 (b) if the actual effective date of this bill is after March 25, 2013, "(1) The authority
246 shall hold its first meeting to initiate the process of formulating a request for proposals no later
247 than June 15, 2013."; and

248 (2) replace the language in Subsection 63C-13-103(7), "the effective date of this
249 section," with the bill's actual effective date.