

1 **PRISON RELOCATION AND DEVELOPMENT AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott K. Jenkins**

5 House Sponsor: Brad R. Wilson

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses the relocation of the state prison, including the development of the
10 current prison land.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies provisions relating to the Prison Relocation and Development Authority;
- 14 ▶ modifies the duties and responsibilities of the authority;
- 15 ▶ establishes a process for the authority to issue a request for proposals for a new
16 prison development project, current prison land development project, or master
17 development project, receive and evaluate proposals, and make a recommendation
18 to the Legislature and governor;
- 19 ▶ provides requirements for a request for proposals and for proposals;
- 20 ▶ enacts a provision relating to compensation and expenses of authority members; and
- 21 ▶ enacts a provision relating to authority members' ethics and conflicts of interest.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 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) "Current prison" means the state prison operating as of February 1, 2013 in Salt
53 Lake County.

54 (3) "Current prison land" means all the land owned or controlled by the state on which
55 the current prison is located or that is contiguous to and surrounding the current prison,
56 including land owned by the Utah Department of Transportation but not used by the Utah
57 Department of Transportation for a right-of-way.

58 (4) "Current prison land development project" means a project to develop the current
59 prison land, including:

60 (a) the transfer of the current prison land into private ownership; and

61 (b) the demolition of the current prison after it is vacated.

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

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

66 (7) "New prison" means a prison to replace the current prison.

67 (8) "New prison development project":

68 (a) means a project for a new prison at one or more suitable locations in the state other
69 than the location of the current 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 Section 2. Section **63C-13-103** is amended to read:

73 **63C-13-103. Creation of Prison Relocation and Development Authority --**

74 **Members.**

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

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

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

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

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

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

84 [(f)] (e) Two members shall be members of the House of Representatives appointed by
85 the speaker of the House of Representatives.

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

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

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

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

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

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

96 **63C-13-104.3. Authority duties and responsibilities.**

97 (1) The authority shall:

98 (a) consult with the division in formulating a request for proposals under Subsection

99 (1)(b):

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

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

106 (d) hold at least one public hearing in the municipality within which the current prison
107 is located to receive public comment on proposals on a current prison land development
108 project;

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

111 (f) evaluate the proposals that are submitted;

112 (g) in evaluating and making a decision on proposals, give additional weight to a
113 proposal that contemplates using contractors, material providers, and laborers from within the

114 state;

115 (h) decide whether to recommend that one of the proposals or a combination of
 116 proposals for a new prison development project, current prison land development project, or
 117 master development project be accepted and that a contract be awarded to the person or persons
 118 who submitted the proposal or combination of proposals; and

119 (i) if the authority decides to recommend a proposal or combination of proposals for
 120 awarding a contract for a new prison development project, current prison land development
 121 project, or master development project to the person or persons who submitted the proposal or
 122 combination of proposals, submit its written recommendation to the governor and the
 123 Legislative Management Committee.

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

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

128 **63C-13-104.7. Request for proposals process.**

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

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

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

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

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

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

139 (3) A proposal submitted in response to a request for proposals under Subsection
 140 63C-13-104.3(1)(b) shall identify and quantify sources of funds that the proposal relies on for
 141 its financial feasibility, including identifying and quantifying which of the following possible

142 sources of funds the proposal relies on:

143 (a) money derived from the sale of the current prison land;

144 (b) savings realized from funds that had been intended for maintenance and upkeep of
145 the current prison but that will not be spent on the current prison due to the construction of a
146 new prison;

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

149 (d) reductions in future years' budgets of the Department of Corrections that equal the
150 savings realized due to greater efficiencies in the operation of a new prison over the anticipated
151 cost of operating the current prison;

152 (e) proceeds from the issuance of bonds;

153 (f) legislative appropriations;

154 (g) financing provided by the developer; and

155 (h) any other source of funds that the offeror proposes to be made available in order to
156 implement the new prison development project, current prison land development project, or
157 master development project.

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

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

162 (ii) identify any changes in state law the offeror recommends be made in order to
163 facilitate the implementation of the new prison development project, current prison land
164 development project, or master development project; and

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

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

169 (5) A contract may not be awarded for a new prison development project, current

170 prison land development project, or master development project unless the governor and
171 Legislature indicate their approval, through the adoption of a concurrent resolution or other
172 legislation indicating approval of the feasibility, overall cost, cost-effectiveness, and concepts
173 involved in the new prison development project, current prison land development project, or
174 master development project, as set forth in the recommended proposal or combination of
175 proposals.

176 (6) The current prison land may not be sold, exchanged, leased, or made subject to an
177 option without the prior approval of the Legislature and governor.

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

179 **63C-13-105. Authority staff and expenses.**

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

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

183 [~~(2)~~] (b) cover authority expenses.

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

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

187 **63C-13-107. Compensation and expenses of authority members.**

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

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

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

197 (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

198 63A-3-107.

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

200 **63C-13-108. Authority member ethics and conflicts of interest.**

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

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

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

205 (i) anticipates submitting a proposal or submits a proposal for a new prison
206 development project, current prison land development project, or master development project;
207 or

208 (ii) anticipates providing material or labor under a contract awarded pursuant to a
209 proposal for a new prison development project, current prison land development project, or
210 master development project;

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

213 (c) has a direct or indirect interest in or derives or will derive any direct or indirect
214 financial benefit from any work done in pursuit of a new prison development project, current
215 prison land development project, or master development project.

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

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

224 Section 8. **Repealer.**

225 This bill repeals:

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

227 Section 9. **Effective date.**

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

232 Section 10. **Revisor instructions.**

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

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

236 (a) if the actual effective date of this bill is March 25, 2013 or earlier, "(1) The
237 authority shall hold its first meeting to initiate the process of formulating a request for
238 proposals no later than April 15, 2013."; or

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

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