

**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

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**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~~] which the former prison [~~property~~] is presently  
 81 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 Section 3. Section **63C-13-104.3** is enacted to read:

95 **63C-13-104.3. Authority duties and responsibilities.**

96 (1) The authority shall:

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

98 (1)(b):

99 (b) with the approval of the director of the division, issue a request for proposals  
100 inviting persons to submit proposals on a new prison development project, former prison land  
101 development project, or master development project;

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

104 (d) evaluate the proposals that are submitted;

105 (e) in evaluating and making a decision on proposals, give additional weight to a  
106 proposal that contemplates using contractors, material providers, and laborers from within the  
107 state;

108 (f) decide whether to recommend that one of the proposals or a combination of  
109 proposals for a new prison development project, former prison land development project, or  
110 master development project be accepted and that a contract be awarded to the person or persons  
111 who submitted the proposal or combination of proposals; and

112 (g) if the authority decides to recommend a proposal or combination of proposals for  
113 awarding a contract for a new prison development project, former prison land development  
114 project, or master development project to the person or persons who submitted the proposal or  
115 combination of proposals, immediately submit its written recommendation to the governor and  
116 the Legislative Management Committee.

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

119 subject to the authority's approval.

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

121 **63C-13-104.7. Request for proposals process.**

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

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

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

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

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

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

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

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

134 (ii) shall allow an offeror to include, as part of the proposal, the operation of the new  
135 prison.

136 (b) A person submitting a proposal for a new prison development project may include,  
137 as part of the proposal:

138 (i) prison programming proposals; or

139 (ii) the operation of a new prison.

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

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

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

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

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

153 (e) proceeds from the issuance of bonds;

154 (f) legislative appropriations;

155 (g) financing provided by the developer; and

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

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

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

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

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

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

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

177 (7) (a) Subject to Subsection (7)(b), the provisions of Title 63G, Chapter 6a, Utah  
178 Procurement Code, do not apply with respect to the process described in this section.

179 (b) The authority shall adopt procurement rules substantially similar to the  
180 requirements of Title 63G, Chapter 6a, Utah Procurement Code, to govern the process

181 described in this section.

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

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

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

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

205 **63C-13-108. Authority member ethics and conflicts of interest.**

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

208 (2) An individual may not be appointed to or serve on the authority if the individual:

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

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

211 development project, former prison land development project, or master development project;

212 or

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

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

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

221 Section 8. **Repealer.**

222 This bill repeals:

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

224 Section 9. **Effective date.**

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

229 Section 10. **Revisor instructions.**

230 The Legislature intends that the Office of Legislative Research and General Counsel, in  
231 preparing the Utah Code database for publication, revise Subsection 63C-13-104.7(1) to read:

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

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