

# HB0430S01 compared with HB0430

~~{deleted text}~~ shows text that was in HB0430 but was deleted in HB0430S01.

inserted text shows text that was not in HB0430 but was inserted into HB0430S01.

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**Representative Gage Froerer proposes the following substitute bill:**

## FAIRPARK LEASING AUTHORIZATION REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

### LONG TITLE

#### General Description:

This bill modifies provisions related to leasing of the state fair park.

#### Highlighted Provisions:

This bill:

- requires the ~~{approval of}~~ Division of Facilities Construction and Management to obtain:
  - the approval of the State Building Board, the Legislative Management Committee, and the Infrastructure and General Government Appropriations Subcommittee ~~{and the Legislative Management Committee}~~ before ~~{the Division of Facilities Construction and Management may lease}~~ leasing the state fair park to the Utah State Fair Corporation; and
  - certain recommendations from the Legislative Management Committee and the

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Infrastructure and General Government Appropriations Subcommittee before allowing the Utah State Fair Corporation ~~{may}~~ to enter into a sublease ~~{the state fair park}~~ for 10 years or more; and

- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**63A-5-306**, as last amended by Laws of Utah 2011, Chapter 370

**63H-6-103**, as last amended by Laws of Utah 2012, Chapters 20 and 347

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

Section 1. Section **63A-5-306** is amended to read:

**63A-5-306. Leasing of state fair park -- Lease -- Terms -- Demolition of facilities -- Limits on debt or obligations.**

(1) As used in this section:

(a) "Corporation" means the Utah State Fair Corporation created in Section 63H-6-103.

(b) "Division" means the Division of Facilities Construction and Management.

(c) "State fair park" means the property and buildings owned by the state located at 155 North 1000 West, Salt Lake City, Utah.

(2) The division:

(a) may lease the state fair park to the corporation for a period not to exceed 50 years:

(i) subject to the division and the corporation satisfying the requirements of

~~[Subsection]~~ Subsections (5)(b)(i) and (ii); and

(ii) except that on June 30, 2017, that portion of the state fair park known as the White Ball Field located on the south side of North Temple Street shall revert to the division and not be a part of any continuing lease agreement between the division and the corporation, unless otherwise agreed upon by the division and the corporation prior to June 30, 2017;

(b) shall ensure that any lease entered into under Subsection (2)(a):

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- (i) defines which party is responsible for repairs and maintenance to the grounds and buildings;
- (ii) defines any restrictions on the use of the property or buildings, including the construction of any new buildings or facilities at the state fair park;
- (iii) requires that for each year under the lease the corporation holds a state fair meeting the requirements of Subsection 63H-6-103(5)(a)(vi); and
- (iv) provides for the renegotiation or termination of the lease if the corporation:
  - (A) no longer operates as an independent public nonprofit corporation as provided in Title 63H, Chapter 6, Utah State Fair Corporation Act; or
  - (B) engages in any activity inconsistent with Title 63H, Chapter 6, Utah State Fair Corporation Act;
- (c) may:
  - (i) require that any lease entered into under Subsection (2)(a) grants the division the right to unilaterally terminate the lease at its discretion; and
  - (ii) provide a process to determine compensation, if any, the division shall pay the corporation for termination of the lease under Subsection (2)(c)(i); and
- (d) if the lease described in Subsection (2)(a) is amended or renewed after the effective date of this act and except as provided in Subsection (3), shall require the corporation under the lease to:
  - (i) provide notice and obtain the approval of the State Building Board, the [Legislative Management Committee](#), and the [Infrastructure and General Government Appropriations Subcommittee](#) ~~and the [Legislative Management Committee](#)~~ before demolishing a facility at the state fair park; and
  - (ii) include the approval requirement described in Subsection (2)(d)(i) in any sublease entered into, renewed, or amended after the effective date of this act.
- (3) (a) The approval required under Subsection (2)(d) does not apply to a facility demolished in accordance with a contract entered into but not amended before the effective date of this act.
  - (b) Notwithstanding Subsection (3)(a), before a facility described in Subsection (3)(a) is demolished, the corporation shall notify the division concerning any demolishing of the facility.

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(4) The State Building Board shall notify the state historic preservation office of any State Building Board meeting at which consideration will be given to a proposal to demolish facilities at the state fair park.

(5) (a) Notwithstanding Subsection (2), the division may review and adjust the amount of any payments made by the corporation under the lease every three years beginning July 1, 2000.

(b) (i) ~~[The]~~ Subject to Subsection (5)(b)(ii), the division may lease the state fair park to the corporation for a period not to exceed 50 years, if the corporation ~~—~~

~~——~~ (A) provides notice and obtains the approval of the Infrastructure and General Government Appropriations Subcommittee and the Legislative Management Committee; and

~~——~~ (B) } demonstrates to the satisfaction of the division that the lease period will result in significant capital improvements at the state fair park by a private or public entity.

~~—(ii) The~~ (ii) The division shall obtain the approval of the Legislative Management Committee and the Infrastructure and General Government Appropriations Subcommittee before executing a lease under this Subsection (5)(b).

~~—(ii) The~~ (iii) Subject to Subsections (5)(iv) and (v), the corporation may enter into a sublease of up to 50 years, ~~[subject to satisfying { } if the corporation:~~

~~——~~ (A) satisfies} the requirements of Subsections (2)(d)(i) and (5)(b)(i) {[.]; and

~~——~~ (B) for}.] if the corporation obtains the approval of the division and the State Building Board.

(iv) Before the division may approve a sublease of 10 years or more, provides notice and obtains the approval of; under Subsection (5)(iii), the division shall submit a copy of the sublease to, and consider the recommendations of, the Legislative Management Committee and the Infrastructure and General Government Appropriations Subcommittee.

(v) The recommendations of the Legislative Management Committee and the Infrastructure and General Government Appropriations Subcommittee {and the Legislative Management Committee} may include that the division:

(A) approve the sublease;

(B) reject the sublease;

(C) modify the sublease; or

(D) submit the sublease to the Legislature for further consideration.

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(6) The state shall assume the responsibilities of the corporation under any contract that is in effect on the day a lease between the division and the corporation terminates if:

(a) the contract is for the lease or construction of a building or facility at the state park; and

(b) the lease between the division and the corporation is terminated in accordance with Subsection (2)(b)(iv).

(7) (a) Payments made by the corporation under a lease with the division shall be deposited into the Capital Project Fund.

(b) If, in accordance with Subsection (5), the payments made by the corporation under a lease with the division are increased from the amount paid on July 1, 1997, the lease payments made by the division shall be dedicated to capital improvements at the state fair park unless, as part of the capital budget, the Legislature directs that the money be used for other capital improvements.

(8) (a) A debt or obligation contracted by the corporation is a debt or obligation of the corporation.

(b) The state is not liable for and assumes no legal or moral responsibility for any debt or obligation described in Subsection (8)(a), unless the Legislature through statute or an appropriation act specifically:

- (i) authorizes the corporation to contract for that debt or obligation; and
- (ii) accepts liability for or assumes responsibility for the debt or obligation.

Section 2. Section **63H-6-103** is amended to read:

### **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall, subject to approval of the board:

(a) have general management, supervision, and control over all activities relating to the state fair and have charge of all state expositions except as otherwise provided by statute;

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(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) establish the time, place, and purpose of state expositions; and

(d) acquire and designate exposition sites.

(5) (a) The corporation shall:

(i) use generally accepted accounting principles in accounting for its assets, liabilities, and operations;

(ii) seek corporate sponsorships for the state fair park and for individual buildings or facilities within the fair park;

(iii) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(iv) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(v) in cooperation with the Division of Facilities Construction and Management, maintain the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(vi) hold an annual exhibition that:

(A) is called the state fair or a similar name;

(B) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral, and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(C) includes the award of premiums for the best specimens of the exhibited articles and animals;

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(D) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(E) is arranged according to plans approved by the board;

(vii) fix the conditions of entry to the exposition described in Subsection (5)(a)(vi); and

(viii) publish a list of premiums that will be awarded at the exhibition described in Subsection (5)(a)(vi) for the best specimens of exhibited articles and animals.

(b) In addition to the state fair to be held in accordance with Subsection (5)(a)(vi), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral, and industrial products, manufactured articles, and domestic animals that, in its opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with its property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of its functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to the provisions of Section 63A-5-306, enter into agreements for the leasing of any of the facilities at the state fair park, if approved by the board; and

(h) sponsor events as approved by the board.

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(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

- (i) Title 51, Chapter 5, Funds Consolidation Act;
  - (ii) Title 51, Chapter 7, State Money Management Act;
  - (iii) Title 63A, Utah Administrative Services Code;
  - (iv) Title 63G, Chapter 6a, Utah Procurement Code;
  - (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
  - (vi) Title 67, Chapter 19, Utah State Personnel Management Act.
- (b) The board shall adopt policies parallel to and consistent with:
- (i) Title 51, Chapter 5, Funds Consolidation Act;
  - (ii) Title 51, Chapter 7, State Money Management Act;
  - (iii) Title 63A, Utah Administrative Services Code;
  - (iv) Title 63G, Chapter 6a, Utah Procurement Code; and
  - (v) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with the legislative approval requirements for new facilities established in Subsection 63A-5-104(3).

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### **Legislative Review Note**

~~as of 2-26-15 10:49 AM~~

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~~Office of Legislative Research and General Counsel~~