

1 **UNIVERSITY STUDENT HOUSING CONSTRUCTION**

2 **OVERSIGHT**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John R. Westwood**

6 Senate Sponsor: Peter C. Knudson

7

LONG TITLE

8 **General Description:**

9 This bill modifies a provision relating to the construction of state facilities.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ exempts higher education institution projects for the construction of student housing
13 from the supervision of the director of the Division of Facilities Construction and
14 Management under certain circumstances.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **63A-5-206**, as last amended by Laws of Utah 2016, Chapter 298

22

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

23 Section 1. Section **63A-5-206** is amended to read:

24 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
25 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
26
27



28 **governments for construction or modification of certain facilities.**

29 (1) As used in this section:

30 (a) "Capital developments" and "capital improvements" have the same meaning as
31 provided in Section [63A-5-104](#).

32 (b) "Compliance agency" has the same meaning as provided in Section [15A-1-202](#).

33 (c) (i) "Facility" means any building, structure, or other improvement that is
34 constructed on property owned by the state, its departments, commissions, institutions, or
35 agencies.

36 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
37 highway system.

38 (d) "Life cycle cost-effective" means, as provided for in rules adopted by the State
39 Building Board, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
40 Act, the most prudent cost of owning and operating a facility, including the initial cost, energy
41 costs, operation and maintenance costs, repair costs, and the costs of energy conservation and
42 renewable energy systems.

43 (e) "Local government" means the county, municipality, or local school district that
44 would have jurisdiction to act as the compliance agency if the property on which the project is
45 being constructed were not owned by the state.

46 (f) "Renewable energy system" means a system designed to use solar, wind, geothermal
47 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
48 building.

49 (2) (a) (i) Except as provided in Subsections (3) and (4), the director shall exercise
50 direct supervision over the design and construction of all new facilities, and all alterations,
51 repairs, and improvements to existing facilities if the total project construction cost, regardless
52 of the funding source, is greater than \$100,000, unless there is memorandum of understanding
53 between the director and an institution of higher education that permits the institution of higher
54 education to exercise direct supervision for a project with a total project construction cost of
55 not greater than \$250,000.

56 (ii) A state entity may exercise direct supervision over the design and construction of
57 all new facilities, and all alterations, repairs, and improvements to existing facilities if:

58 (A) the total project construction cost, regardless of the funding sources, is \$100,000 or

59 less; and

60 (B) the state entity assures compliance with the division's forms and contracts and the
61 division's design, construction, alteration, repair, improvements, and code inspection standards.

62 (b) The director shall prepare or have prepared by private firms or individuals designs,
63 plans, and specifications for the projects administered by the division.

64 (c) Before proceeding with construction, the director and the officials charged with the
65 administration of the affairs of the particular agency shall approve the location, design, plans,
66 and specifications.

67 (3) Projects for the construction of new facilities and alterations, repairs, and
68 improvements to existing facilities are not subject to Subsection (2) if the project:

69 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

70 (b) is within a designated research park at the University of Utah or Utah State

71 University;

72 (c) occurs within the boundaries of This is the Place State Park and is administered by
73 This is the Place Foundation except that This is the Place Foundation may request the director
74 to administer the design and construction; [or]

75 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
76 Percent-for-Art Act[-]; or

77 (e) is a project of an institution of higher education for the construction of student
78 housing that will not require the expenditure of state funds for:

79 (i) operation and maintenance expenses; or

80 (ii) the cost of repairs or improvements.

81 (4) (a) (i) The State Building Board may authorize the delegation of control over
82 design, construction, and all other aspects of any project to entities of state government on a
83 project-by-project basis or for projects within a particular dollar range and a particular project
84 type.

85 (ii) The state entity to whom control is delegated shall assume fiduciary control over
86 project finances, shall assume all responsibility for project budgets and expenditures, and shall
87 receive all funds appropriated for the project, including any contingency funds contained in the
88 appropriated project budget.

89 (iii) Delegation of project control does not exempt the state entity from complying with

90 the codes and guidelines for design and construction adopted by the division and the State
91 Building Board.

92 (iv) State entities that receive a delegated project may not access, for the delegated
93 project, the division's statewide contingency reserve and project reserve authorized in Section
94 [63A-5-209](#).

95 (b) For facilities that will be owned, operated, maintained, and repaired by an entity
96 that is not a state agency and that are located on state property, the State Building Board may
97 authorize the owner to administer the design and construction of the project instead of the
98 division.

99 (5) Notwithstanding any other provision of this section, if a donor donates land to an
100 eligible institution of higher education and commits to build a building or buildings on that
101 land, and the institution agrees to provide funds for the operations and maintenance costs from
102 sources other than state funds, and agrees that the building or buildings will not be eligible for
103 state capital improvement funding, the higher education institution may:

104 (a) oversee and manage the construction without involvement, oversight, or
105 management from the division; or

106 (b) arrange for management of the project by the division.

107 (6) (a) The role of compliance agency as provided in Title 15A, State Construction and
108 Fire Codes Act, shall be provided by:

109 (i) the director, for projects administered by the division;

110 (ii) the entity designated by the State Capitol Preservation Board, for projects under
111 Subsection (3)(a);

112 (iii) the local government, for projects exempt from the division's administration under
113 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

114 (iv) the state entity or local government designated by the State Building Board, for
115 projects under Subsection (4); or

116 (v) the institution, for projects exempt from the division's administration under
117 Subsection (5)(a).

118 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
119 shall be provided by the entity that is acting in this capacity for the balance of the project as
120 provided in Subsection (6)(a).

121 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
122 may:

123 (i) only review plans and inspect construction to enforce the State Construction Code
124 or an approved code under Title 15A, State Construction and Fire Codes Act; and

125 (ii) charge a building permit fee of no more than the amount it could have charged if
126 the land upon which the improvements are located were not owned by the state.

127 (d) (i) The use of state property and any improvements constructed on state property,
128 including improvements constructed by nonstate entities, is not subject to the zoning authority
129 of local governments as provided in Sections 10-9a-304 and 17-27a-304.

130 (ii) The state entity controlling the use of the state property shall consider any input
131 received from the local government in determining how the property shall be used.

132 (7) Before construction may begin, the director shall review the design of projects
133 exempted from the division's administration under Subsection (4) to determine if the design:

134 (a) complies with any restrictions placed on the project by the State Building Board;
135 and

136 (b) is appropriate for the purpose and setting of the project.

137 (8) The director shall ensure that state-owned facilities, except for facilities under the
138 control of the State Capitol Preservation Board, are life cycle cost-effective.

139 (9) The director may expend appropriations for statewide projects from funds provided
140 by the Legislature for those specific purposes and within guidelines established by the State
141 Building Board.

142 (10) (a) The director, with the approval of the Office of the Legislative Fiscal Analyst,
143 shall develop standard forms to present capital development and capital improvement cost
144 summary data.

145 (b) The director shall:

146 (i) within 30 days after the completion of each capital development project, submit cost
147 summary data for the project on the standard form to the Office of the Legislative Fiscal
148 Analyst; and

149 (ii) upon request, submit cost summary data for a capital improvement project to the
150 Office of Legislative Fiscal Analyst on the standard form.

151 (11) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures

152 Act, the director may:

153 (a) accelerate the design of projects funded by any appropriation act passed by the
154 Legislature in its annual general session;

155 (b) use any unencumbered existing account balances to fund that design work; and

156 (c) reimburse those account balances from the amount funded for those projects when
157 the appropriation act funding the project becomes effective.

158 (12) (a) The director, the director's designee, or the state entity to whom control has
159 been designated under Subsection (4), shall notify in writing the elected representatives of local
160 government entities directly and substantively affected by any diagnostic, treatment, parole,
161 probation, or other secured facility project exceeding \$250,000, if:

162 (i) the nature of the project has been significantly altered since prior notification;

163 (ii) the project would significantly change the nature of the functions presently
164 conducted at the location; or

165 (iii) the project is new construction.

166 (b) At the request of either the state entity or the local government entity,
167 representatives from the state entity and the affected local entity shall conduct or participate in
168 a local public hearing or hearings to discuss these issues.

169 (13) (a) (i) Before beginning the construction of student housing on property owned by
170 the state or a public institution of higher education, the director shall provide written notice of
171 the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student
172 housing buildings is within 300 feet of privately owned residential property.

173 (ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body
174 and, if applicable, the mayor of:

175 (A) the county in whose unincorporated area the privately owned residential property is
176 located; or

177 (B) the municipality in whose boundaries the privately owned residential property is
178 located.

179 (b) (i) Within 21 days after receiving the notice required by Subsection (13)(a)(i), a
180 county or municipality entitled to the notice may submit a written request to the director for a
181 public hearing on the proposed student housing construction.

182 (ii) If a county or municipality requests a hearing under Subsection (13)(b)(i), the

183 director and the county or municipality shall jointly hold a public hearing to provide
184 information to the public and to allow the director and the county or municipality to receive
185 input from the public about the proposed student housing construction.

Legislative Review Note
Office of Legislative Research and General Counsel