

Senator Margaret Dayton proposes the following substitute bill:

STATE REAL PROPERTY AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

LONG TITLE

General Description:

This bill requires legislative approval for municipal boundary adjustments that affect real property owned by the state.

Highlighted Provisions:

This bill:

- requires legislative approval before the Division of Facilities and Construction Management takes action regarding a municipal boundary change that affects real property owned by the state; and
- sets restrictions on a process to adjust a municipal boundary if the adjustment affects real property owned by the state.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-419, as last amended by Laws of Utah 2010, Chapter 90

63A-5-204, as last amended by Laws of Utah 2017, Chapter 56



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

Section 1. Section **10-2-419** is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) (a) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(i) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary;

(ii) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a)(i); and

(iii) (A) publish notice:

(I) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; or

(II) if there is no newspaper of general circulation within the municipality, post at least one notice per 1,000 population in places within the municipality that are most likely to give notice to residents of the municipality; and

(B) on the Utah Public Notice Website created in Section [63F-1-701](#) for three weeks.

(b) The notice required under Subsection (2)(a)(iii) shall:

(i) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(ii) describe the area proposed to be adjusted;

(iii) state the date, time, and place of the public hearing required under Subsection (2)(a)(ii);

(iv) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing under Subsection (2)(a)(ii), written protests to the adjustment are filed by the owners of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for

57 adjustment; and

58 (C) is equal in value to at least 15% of the value of all private real property within the
59 area proposed for adjustment;

60 (v) state that the area that is the subject of the boundary adjustment will, because of the
61 boundary adjustment, be automatically annexed to a local district providing fire protection,
62 paramedic, and emergency services or a local district providing law enforcement service, as the
63 case may be, as provided in Section 17B-1-416, if:

64 (A) the municipality to which the area is being added because of the boundary
65 adjustment is entirely within the boundaries of a local district:

66 (I) that provides fire protection, paramedic, and emergency services or law enforcement
67 service, respectively; and

68 (II) in the creation of which an election was not required because of Subsection
69 17B-1-214(3)(c); and

70 (B) the municipality from which the area is being taken because of the boundary
71 adjustment is not within the boundaries of the local district; and

72 (vi) state that the area proposed for annexation to the municipality will be
73 automatically withdrawn from a local district providing fire protection, paramedic, and
74 emergency services, as provided in Subsection 17B-1-502(2), if:

75 (A) the municipality to which the area is being added because of the boundary
76 adjustment is not within the boundaries of a local district:

77 (I) that provides fire protection, paramedic, and emergency services; and

78 (II) in the creation of which an election was not required because of Subsection
79 17B-1-214(3)(c); and

80 (B) the municipality from which the area is being taken because of the boundary
81 adjustment is entirely within the boundaries of the local district.

82 (c) The first publication of the notice required under Subsection (2)(a)(iii)(A) shall be
83 within 14 days of the municipal legislative body's adoption of a resolution under Subsection
84 (2)(a)(i).

85 (3) Upon conclusion of the public hearing under Subsection (2)(a)(ii), the municipal
86 legislative body may adopt an ordinance approving the adjustment of the common boundary
87 unless, at or before the hearing under Subsection (2)(a)(ii), written protests to the adjustment

88 have been filed with the city recorder or town clerk, as the case may be, by the owners of
89 private real property that:

90 (a) is located within the area proposed for adjustment;

91 (b) covers at least 25% of the total private land area within the area proposed for
92 adjustment; and

93 (c) is equal in value to at least 15% of the value of all private real property within the
94 area proposed for adjustment.

95 (4) The municipal legislative body shall comply with the requirements of Section
96 10-2-425 as if the boundary adjustment were an annexation.

97 (5) (a) An ordinance adopted under Subsection (3) becomes effective when each
98 municipality involved in the boundary adjustment has adopted an ordinance under Subsection
99 (3).

100 (b) The effective date of a boundary adjustment under this section is governed by
101 Section 10-2-425.

102 (6) Notwithstanding the provisions of this section, without approval of the Legislature,
103 a legislative body may not adjust a geographic boundary of a local governmental entity, if the
104 change will result in any part of real property owned by the state being within the geographic
105 boundary of a different local governmental entity than before the adjustment.

106 Section 2. Section 63A-5-204 is amended to read:

107 **63A-5-204. Specific powers and duties of director.**

108 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the
109 same meaning as provided in Section 63C-9-102.

110 (2) (a) The director shall:

111 (i) recommend rules to the executive director for the use and management of facilities
112 and grounds owned or occupied by the state for the use of its departments and agencies;

113 (ii) supervise and control the allocation of space, in accordance with legislative
114 directive through annual appropriations acts or other specific legislation, to the various
115 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
116 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
117 otherwise provided by law;

118 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,

119 Division of Facilities Construction and Management Leasing;

120 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
121 through the appropriations act or other specific legislation, and hold title to, in the name of the
122 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
123 agencies;

124 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
125 title to or interest in property belonging to the state or any of its departments, except
126 institutions of higher education and the School and Institutional Trust Lands Administration;

127 (vi) report all properties acquired by the state, except those acquired by institutions of
128 higher education, to the director of the Division of Finance for inclusion in the state's financial
129 records;

130 (vii) before charging a rate, fee, or other amount for services provided by the division's
131 internal service fund to an executive branch agency, or to a subscriber of services other than an
132 executive branch agency:

133 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee
134 established in Section [63A-1-114](#); and

135 (B) obtain the approval of the Legislature as required by Section [63J-1-410](#);

136 (viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of
137 proposed rates and fees, which analysis shall include a comparison of the division's rates and
138 fees with the fees of other public or private sector providers where comparable services and
139 rates are reasonably available;

140 (ix) implement the State Building Energy Efficiency Program under Section
141 [63A-5-701](#);

142 (x) convey, lease, or dispose of the real property or water rights associated with the
143 Utah State Developmental Center according to the Utah State Developmental Center
144 Governing Board's determination and with legislative approval, as described in Subsection
145 [62A-5-206.6\(5\)](#); and

146 (xi) take all other action necessary for carrying out the purposes of this chapter.

147 (b) Legislative approval is not required for acquisitions by the division that cost less
148 than \$250,000.

149 (c) The director may not, without the approval of the Legislature, take any action in

150 furtherance of changing a geographic boundary of a local governmental entity, if the change
151 will result in any part of real property owned by the state being within the geographic boundary
152 of a different local governmental entity than before the change.

153 (3) (a) The director shall direct or delegate maintenance and operations, preventive
154 maintenance, and facilities inspection programs and activities for any agency, except:

155 (i) the State Capitol Preservation Board; and

156 (ii) state institutions of higher education.

157 (b) The director may choose to delegate responsibility for these functions only when
158 the director determines that:

159 (i) the agency has requested the responsibility;

160 (ii) the agency has the necessary resources and skills to comply with facility
161 maintenance standards approved by the State Building Board; and

162 (iii) the delegation would result in net cost savings to the state as a whole.

163 (c) The State Capitol Preservation Board and state institutions of higher education are
164 exempt from Division of Facilities Construction and Management oversight.

165 (d) Each state institution of higher education shall comply with the facility
166 maintenance standards approved by the State Building Board.

167 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
168 exempt from division oversight shall annually report their compliance with the facility
169 maintenance standards to the division in the format required by the division.

170 (f) The division shall:

171 (i) prescribe a standard format for reporting compliance with the facility maintenance
172 standards;

173 (ii) report agency compliance or noncompliance with the standards to the Legislature;
174 and

175 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
176 complying with the standards.

177 (4) (a) In making any allocations of space under Subsection (2), the director shall:

178 (i) conduct studies to determine the actual needs of each agency; and

179 (ii) comply with the restrictions contained in this Subsection (4).

180 (b) The supervision and control of the legislative area is reserved to the Legislature.

181 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
182 courts only.

183 (d) The director may not supervise or control the allocation of space for entities in the
184 public and higher education systems.

185 (e) The supervision and control of capitol hill facilities and capitol hill grounds is
186 reserved to the State Capitol Preservation Board.

187 (5) The director may:

188 (a) hire or otherwise procure assistance and services, professional, skilled, or
189 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds
190 provided for that purpose either through annual operating budget appropriations or from
191 nonlapsing project funds;

192 (b) sue and be sued in the name of the division; and

193 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the
194 Legislature, whatever real or personal property that is necessary for the discharge of the
195 director's duties.

196 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may
197 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes
198 other than administration that are under their control and management:

199 (a) the Office of Trust Administrator;

200 (b) the Department of Transportation;

201 (c) the Division of Forestry, Fire, and State Lands;

202 (d) the Department of Natural Resources;

203 (e) the Utah National Guard;

204 (f) any area vocational center or other institution administered by the State Board of
205 Education;

206 (g) any institution of higher education; and

207 (h) the Utah Science Technology and Research Governing Authority.

208 (7) The director shall ensure that any firm performing testing and inspection work
209 governed by the American Society for Testing Materials Standard E-329 on public buildings
210 under the director's supervision shall:

211 (a) fully comply with the American Society for Testing Materials standard

212 specifications for agencies engaged in the testing and inspection of materials known as ASTM
213 E-329; and

214 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

215 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
216 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
217 held by it that are under its control.