

1 **FREE MARKET PROTECTION AND PRIVATIZATION**

2 **BOARD REVISIONS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kay J. Christofferson**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Government Operations Interim Committee recommended this bill.

11 **General Description:**

12 This bill amends provisions of the Free Market Protection and Privatization Board Act.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ removes an institution of higher education from the list of entities exempt from the
- 16 purview of the Free Market Protection and Privatization Board;
- 17 ▶ changes the size and membership of the board; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 This bill appropriates in fiscal year 2020:

- 21 ▶ to Governor's Office - Governor's Office of Management and Budget - Operational
- 22 Excellence, as an ongoing appropriation:
- 23 • from the General Fund, \$70,000.

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 [63I-4a-102](#), as last amended by Laws of Utah 2018, Chapter 415
29 [63I-4a-202](#), as last amended by Laws of Utah 2014, Chapters 189 and 387



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

32 Section 1. Section [63I-4a-102](#) is amended to read:

33 **[63I-4a-102](#). Definitions.**

34 (1) (a) "Activity" means to provide a good or service.

35 (b) "Activity" includes to:

36 (i) manufacture a good or service;

37 (ii) process a good or service;

38 (iii) sell a good or service;

39 (iv) offer for sale a good or service;

40 (v) rent a good or service;

41 (vi) lease a good or service;

42 (vii) deliver a good or service;

43 (viii) distribute a good or service; or

44 (ix) advertise a good or service.

45 (2) (a) Except as provided in Subsection (2)(b), "agency" means:

46 (i) the state; or

47 (ii) an entity of the state including a department, office, division, authority,
48 commission, or board.

49 (b) "Agency" does not include:

50 (i) the Legislature;

51 (ii) an entity or agency of the Legislature;

52 (iii) the state auditor;

53 (iv) the state treasurer;

54 (v) the Office of the Attorney General;

55 (vi) the Utah Dairy Commission created in Section [4-22-103](#);

56 (vii) the Heber Valley Historic Railroad Authority created in Section [63H-4-102](#);

57 (viii) the Utah State Railroad Museum Authority created in Section [63H-5-102](#);

58 (ix) the Utah Housing Corporation created in Section [63H-8-201](#);

- 59 (x) the Utah State Fair Corporation created in Section [63H-6-103](#);
- 60 (xi) the Utah State Retirement Office created in Section [49-11-201](#);
- 61 (xii) a charter school chartered by the State Charter School Board or a board of trustees
62 of a higher education institution under Title 53G, Chapter 5, Charter Schools;
- 63 (xiii) the Utah Schools for the Deaf and the Blind created in Title 53E, Chapter 8, Utah
64 Schools for the Deaf and the Blind;
- 65 [~~(xiv) an institution of higher education as defined in Section [53B-3-102](#);~~]
- 66 [~~(xv)~~ (xiv) the School and Institutional Trust Lands Administration created in Section
67 [53C-1-201](#);
- 68 [~~(xvi)~~ (xv) the Utah Communications Authority created in Section [63H-7a-201](#); or
69 [~~(xvii)~~ (xvi) the Utah Capital Investment Corporation created in Section [63N-6-301](#).
- 70 (3) "Agency head" means the chief administrative officer of an agency.
- 71 (4) "Board" means the Free Market Protection and Privatization Board created in
72 Section [63I-4a-202](#).
- 73 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
74 or in part from a private enterprise.
- 75 (6) "Local entity" means:
- 76 (a) a political subdivision of the state, including a:
- 77 (i) county;
- 78 (ii) city;
- 79 (iii) town;
- 80 (iv) local school district;
- 81 (v) local district; or
- 82 (vi) special service district;
- 83 (b) an agency of an entity described in this Subsection (6), including a department,
84 office, division, authority, commission, or board; or
- 85 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
86 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 87 (7) "Private enterprise" means a person that engages in an activity for profit.
- 88 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
89 private enterprise engages in the activity, including a transfer by:

- 90 (a) contract;
- 91 (b) transfer of property; or
- 92 (c) another arrangement.

93 (9) "Special district" means:

- 94 (a) a local district, as defined in Section 17B-1-102;
- 95 (b) a special service district, as defined in Section 17D-1-102; or
- 96 (c) a conservation district, as defined in Section 17D-3-102.

97 Section 2. Section 63I-4a-202 is amended to read:

98 **63I-4a-202. Free Market Protection and Privatization Board -- Created --**
 99 **Membership -- Operations -- Expenses.**

100 (1) (a) There is created the Free Market Protection and Privatization Board composed
 101 of ~~[17]~~ 11 members.

102 (b) The governor shall appoint board members as follows:

103 ~~[(i) two senators, one each from the majority and minority political parties, from names
 104 recommended by the president of the Senate;]~~

105 ~~[(ii) two representatives, one each from the majority and minority political parties,
 106 from names recommended by the speaker of the House of Representatives;]~~

107 (i) three members of the Legislature, from names recommended by the president of the
 108 Senate and the speaker of the House of Representatives, no more than two of whom may be
 109 from the same house of the Legislature and no more than two of whom may be from the same
 110 political party;

111 ~~[(iii) two members]~~

112 (ii) one member representing public employees, from names recommended by the
 113 largest public employees' association in the state;

114 ~~[(iv)]~~ (iii) one member from state management;

115 ~~[(v) seven]~~

116 (iv) four members from the private business community; and

117 ~~[(vi) one member representing the Utah League of Cities and Towns from names
 118 recommended by the Utah League of Cities and Towns;]~~

119 ~~[(vii) one member representing the Utah Association of Counties from names
 120 recommended by the Utah Association of Counties; and]~~

121 [~~(viii) one member representing the Utah Association of Special Districts, from names~~
122 ~~recommended by the Utah Association of Special Districts.~~]

123 (v) two members representing local entities, from names recommended by the Utah
124 League of Cities and Towns, the Utah Association of Counties, and the Utah Association of
125 Special Districts.

126 (2) (a) Except as provided in Subsection (2)(b), a board member shall serve a two-year
127 term.

128 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, before
129 July 1, 2019, and at the time of appointment or reappointment, adjust the length of terms to
130 ensure that the terms of board members are staggered so that approximately half of the board is
131 appointed every year.

132 (3) (a) A board member shall hold office until the board member's successor is
133 appointed and qualified.

134 (b) When a vacancy occurs in the membership for any reason, the governor shall
135 appoint a replacement [~~shall be appointed~~] for the unexpired term.

136 (c) [~~Nine~~] Six members of the board constitute a quorum.

137 (d) The vote of a majority of board members voting when a quorum is present is
138 necessary for the board to act.

139 (4) (a) The board shall select one of the members to serve as chair of the board.

140 (b) A chair shall serve as chair for a term of one-year, and may be selected as chair for
141 more than one term.

142 (5) The Governor's Office of Management and Budget shall staff the board. The board
143 may contract for additional staff from the private sector under Section [63I-4a-204](#).

144 (6) The board shall meet:

145 (a) at least quarterly; and

146 (b) as necessary to conduct [~~its~~] the board's business, as called by the chair.

147 (7) (a) A member who is not a legislator may not receive compensation or benefits for
148 the member's service, but may receive per diem and travel expenses as allowed in:

149 (i) Section [63A-3-106](#);

150 (ii) Section [63A-3-107](#); and

151 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and

152 63A-3-107.

153 (b) Compensation and expenses of a member who is a legislator are governed by
154 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

155 Section 3. **Appropriation.**

156 The following sums of money are appropriated for the fiscal year beginning July 1,
157 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
158 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
159 Act, the Legislature appropriates the following sums of money from the funds or accounts
160 indicated for the use and support of the government of the state of Utah.

161 ITEM 1

162 To Governor's Office - Governor's Office of Management and Budget

163 From General Fund \$70,000

164 Schedule of Programs:

165 Operational Excellence \$70,000

166 The Legislature intends that the Governor's Office of Management and Budget use the
167 appropriation under this item to fund a half full-time equivalent employee to provide staff
168 support to the Free Market Protection and Privatization Board created in Section 63I-4a-202.