

## SB0109S01 compared with SB0109

~~{deleted text}~~ shows text that was in SB0109 but was deleted in SB0109S01.

inserted text shows text that was not in SB0109 but was inserted into SB0109S01.

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Senator Don L. Ipson proposes the following substitute bill:

### NEW STATE CONSTRUCTION ~~{SET-ASIDE}~~SET-ASIDE FOR ART AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

House Sponsor: ~~{\_\_\_\_\_}~~Francis D. Gibson

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#### LONG TITLE

##### General Description:

This bill modifies a provision relating to a new state construction set aside for art.

##### Highlighted Provisions:

This bill:

- ▶ ~~{reduces}~~limits the amount that may be set aside from the amount appropriated for the construction of any new state building or facility; and
- ▶ ~~{places an annual limit on the amount that may be set aside.}~~modifies a provision relating to artists the Division of Arts and Museums considers and gives preference to in the percent-for-art program.

##### Money Appropriated in this Bill:

## SB0109S01 compared with SB0109

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

9-6-405, as last amended by Laws of Utah 2010, Chapter 378

63A-5-209, as last amended by Laws of Utah 2019, Chapter 468

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

Section 1. Section 9-6-405 is amended to read:

#### **9-6-405. Procedures, guidelines, and rules.**

(1) The division shall follow these guidelines in administering the program:

(a) Works of art shall be acquired under the program for use only with respect to those buildings or facilities that the division determines have significant public use or access, especially where the design and technical construction of the building or facility lend themselves to works of art. All funds set aside and administered by the program from appropriations for any state building or facility of which any part is obtained from the issuance of bonds shall be used only to acquire works of art that will be placed in or at, and remain a part of, that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on the bonds.

(b) The goal of the division in administering the program is to fairly distribute works of art throughout the various social, economic, and geographic communities of the state.

(c) The division shall:

(i) give first preference to Utah artists[-]; and

(ii) may consider artists from other states and ~~give { first } preference { to Utah artists, and }~~ to artists from other states ~~[which] that~~ have similar percent-for-art programs and demonstrate a reciprocal preference for Utah artists.

(d) The division shall involve the director of the Division of Facilities Construction and Management, or the director's designee, and the project architect in the process of screening or selecting works of art or artists to create works of art for each project and shall involve in that process representatives from the project's principal user or contracting agency,

## SB0109S01 compared with SB0109

the community in which the project is located, and the art profession. The project's principal user or contracting agency shall have representation at least equal to any other entity on the selection committee, as designated by the project's president or director. Any selection and placement of art shall be by a majority decision of the user agency representatives on the committee and a majority decision of the entire committee. The selection and placement shall be approved by the president or director of the principal user.

(e) Any relocation of art placed under this program shall be done with the participation from the division and the Division of Facilities Construction and Management and with approval from the president or director of the principal user.

(f) The costs of administering the program and conserving and maintaining all works of art placed under the program are limited to 15% of the funds deposited in the Utah Percent-for-Art Account.

(2) The division shall adopt procedures, guidelines, and rules as necessary to implement this chapter and administer the program.

Section ~~41~~2. Section **63A-5-209** is amended to read:

### **63A-5-209. Building appropriations supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.**

(1) The director shall:

(a) (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated when more than one project is included in any single appropriation without legislative directive;

(b) (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii) (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5-211 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

## **SB0109S01 compared with SB0109**

(ii) which may be over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2) (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) 4-1/2% to 6-1/2% for new construction; and

(ii) 6% to 9-1/2% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c) (i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.

(3) (a) The director shall hold in a separate reserve those state appropriated funds accrued through bid savings and project residual as a project reserve.

(b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:

(i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5-104; and

(ii) bid savings and project residual from a capital development project, as defined in Section 63A-5-104.

(c) The State Building Board may authorize the use of project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:

(i) approved under Section 63A-5-104; and

(ii) for which funds are not allocated.

(d) The director may:

(i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project;

(ii) transfer money from the account described in Subsection (3)(b)(i) to the account

## SB0109S01 compared with SB0109

described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and

(iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.

(e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:

(i) an authorization under Subsection (3)(c); or

(ii) a transfer under Subsection (3)(d).

(f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.

(4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.

(5) (a) (i) One ~~quarter of one~~ percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(ii) The total ~~annual~~ amount appropriated under Subsection (5)(a)(i) may not exceed ~~\$100~~\$200,000.

(b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.

(c) Funds from appropriations for any state building or facility of which any part is derived from the issuance of bonds, to the extent it would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds, may not be set aside.

### Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect

**SB0109S01 compared with SB0109**

upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.