

SB0133S02 compared with SB0133S01

~~text~~ shows text that was in SB0133S01 but was deleted in SB0133S02.

text shows text that was not in SB0133S01 but was inserted into SB0133S02.

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Senator Daniel Hemmert proposes the following substitute bill:

PUBLIC-PRIVATE PARTNERSHIPS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to public-private partnerships.

Highlighted Provisions:

This bill:

- ▶ requires the Governor's Office of Economic Development to engage a person to act as a facilitator for public-private partnerships in the state; ~~and~~
- ▶ provides for requirements for a facilitator under a contract with the Governor's Office of Economic Development~~;~~ and
- ▶ provides a repeal date for the provisions relating to a facilitator.

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

ENACTS:

63N-13-301, Utah Code Annotated 1953

63N-13-302, Utah Code Annotated 1953

63N-13-303, Utah Code Annotated 1953

63N-13-304, Utah Code Annotated 1953

63N-13-305, Utah Code Annotated 1953

63N-13-306, Utah Code Annotated 1953

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

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

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- (b) Subsections 63H-6-104(8) and (9) are repealed.
- (6) Section 63H-7a-303 is repealed on July 1, 2022.
- (7) In relation to the Employability to Careers Program Board, on July 1, 2022:
 - (a) Subsection 63J-1-602.1(52) is repealed;
 - (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed;

and

- (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.
- (8) Section 63J-4-708 is repealed January 1, 2023.

(9) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

Section ~~{1}~~2. Section **63N-13-301** is enacted to read:

Part 3. Facilitating Public-Private Partnerships Act

63N-13-301. Title.

This part is known as the "Facilitating Public-Private Partnerships Act."

Section ~~{2}~~3. Section **63N-13-302** is enacted to read:

63N-13-302. Definitions.

As used in this part:

(1) "Facilitator" means a person engaged by the office to perform the functions and responsibilities described in Section 63N-13-304.

(2) "Government entity" means:

(a) the state or any department, division, agency, or other instrumentality of the state;

or

(b) a political subdivision of the state.

(3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

Section ~~{3}~~4. Section **63N-13-303** is enacted to read:

63N-13-303. Contract with facilitator.

(1) Within legislative appropriations, the office shall enter into a contract with a

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~~{person}~~ nonprofit entity or government entity to act as a facilitator.

(2) The office shall use a request for proposals process under Title 63G, Chapter 6a, Utah Procurement Code, to select a qualified person to act as facilitator.

(3) The term of a contract under Subsection (1) may not exceed three years.

(4) The office shall ensure that the contract with the facilitator includes a conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or indirect financial benefit from any public-private partnership that results from the facilitator's work under the contract.

Section ~~{4}~~5. Section **63N-13-304** is enacted to read:

63N-13-304. Contract requirements for a facilitator.

In a contract under Section 63N-13-303, the office shall require a facilitator to:

(1) be a single point of contact and information on public-private partnerships in the state for:

(a) government entities exploring the possibility of filling a public need through a public-private partnership; and

(b) private persons exploring investment opportunities in a public project in the state through a public-private partnership;

(2) work ~~{actively}~~ throughout the state to identify government entities that may have an interest in seeking to fill a public need through a public-private partnership;

(3) work ~~{actively}~~ to identify private persons who may have an interest in investment opportunities in public projects in the state through a public-private partnership;

(4) facilitate the matching of government entities seeking to fill a public need through a public-private partnership with private persons seeking investment opportunities in public projects through a public-private partnership;

(5) facilitate and assist with the establishment of public-private partnerships for government entities who request the facilitator's assistance in establishing a public-private partnership; and

(6) make recommendations for the Legislature to consider at the 2021 legislative general session relating to public-private partnerships:

(a) to enhance the statutory framework for the establishment of public-private partnerships for public infrastructure projects; and

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(b) with the goal of moving the state to the forefront throughout the country in the area of private participation in public infrastructure development.

Section ~~5~~6. Section **63N-13-305** is enacted to read:

63N-13-305. Office oversight over contract performance of facilitator.

The office shall monitor and oversee a facilitator's performance under a contract under Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section 63N-13-304.

Section ~~6~~7. Section **63N-13-306** is enacted to read:

63N-13-306. Limits on application of this part.

Nothing in this part:

(1) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or

(2) limits the ability of a government entity to directly:

(a) solicit a public-private partnership; or

(b) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.