

SB0113S02 compared with SB0113S01

~~{deleted text}~~ shows text that was in SB0113S01 but was deleted in SB0113S02.

inserted text shows text that was not in SB0113S01 but was inserted into SB0113S02.

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Senator David G. Buxton proposes the following substitute bill:

DISPOSITION OF STATE PROPERTY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David G. Buxton

House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions related to the sale, long-term lease, or other disposition of state property.

Highlighted Provisions:

This bill:

- ▶ ~~{modifies provisions related to the sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the Utah State Developmental Center}~~ defines terms;
- ▶ modifies the duties and the authority of the Division of Facilities Construction and Management (division);
- ▶ modifies provisions related to the purchase, disposal, or exchange of ~~{division-owned}~~ real property owned by the division; and

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- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~{ 26B-6-507, as renumbered and amended by Laws of Utah 2023, Chapter 308~~

~~{ 63A-5b-303 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapter 329~~

~~63A-5b-303 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 329, 394~~

~~63A-5b-806, as last amended by Laws of Utah 2022, Chapter 421~~

~~63A-5b-902, as last amended by Laws of Utah 2023, Chapter 263~~

~~63A-5b-904, as last amended by Laws of Utah 2022, Chapter 421~~

~~63A-5b-905, as last amended by Laws of Utah 2022, Chapter 421~~

~~63A-5b-908, as renumbered and amended by Laws of Utah 2020, Chapter 152~~

~~63A-5b-909, as last amended by Laws of Utah 2022, Chapter 101~~

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

~~{ Section 1. Section 26B-6-507 is amended to read:~~

~~26B-6-507. Utah State Developmental Center land and water rights.~~

~~(1) As used in this section, "long-term lease" means:~~

~~(a) a lease with a term of five years or more; or~~

~~(b) a lease with a term of less than five years that may be unilaterally renewed by the lessee.~~

~~(2) (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center shall be conducted as provided in this Subsection (2).~~

~~(b) Any person who proposes a sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center shall submit~~

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~~the proposal to the board.~~

~~—— (c) [The] Within 30 days after receiving a proposal described in Subsection (2)(b), the board shall[.] review the proposal and submit the proposal and the board's recommendation concerning the proposal to the Division of Facilities Construction and Management and the Executive Appropriations Committee.~~

~~—— [(i)] (d) [approve] The Executive Appropriations Committee shall review a proposal and the board's recommendation described in Subsection (2)(c) and make a recommendation to the Division of Facilities Construction and Management concerning the sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center[.];~~

~~—— [(ii)] secure the approval of the Legislature before offering the real property, water rights, or water shares for sale, long-term lease, or other disposition; and]~~

~~—— [(iii)] (e) [if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct] After receiving the Executive Appropriations Committee's recommendation, the Division of Facilities Construction and Management [to] may convey, lease, or dispose of the real property, water rights, or water shares associated with the developmental center according to [the board's determination] Subsection 63A-5b-303(1)(a)(viii).~~

‡ Section ~~{2}~~1. Section **63A-5b-303 (Superseded 07/01/24)** is amended to read:

63A-5b-303 (Superseded 07/01/24). Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

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(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities ~~[-;]~~

~~[-; (A)]~~ to implement the state building energy efficiency program under Section 63A-5b-1002 ~~[-; and]~~.

~~[(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;]~~

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center ~~[if directed to do so by the Utah State Developmental Center board;]~~ as provided in Subsection 26B-6-507(2); ~~[and]~~

(ix) except as provided in Subsection (2)(c), convey, lease, or dispose of division-owned real property for fair market value, as determined by the division; and

~~[(ix)]~~ (x) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if ~~[the acquisition cost]~~:

(i) the acquisition cost does not exceed \$500,000[-], as estimated by the division; or

(ii) the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(ix).

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's

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duties; ~~and~~

(c) convey, lease, or dispose of vacant division-owned real property for less than fair market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property; and

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

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

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

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

(d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section ~~33~~2. Section **63A-5b-303 (Effective 07/01/24)** is amended to read:

63A-5b-303 (Effective 07/01/24). Duties and authority of division.

(1) (a) The division shall:

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(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities~~[-{ }]~~

~~[{ } (A)] { }~~ to implement the state building energy efficiency program under Section 63A-5b-1002; ~~[and]~~

~~[(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;]~~

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center ~~[if directed to do so by the Utah State Developmental Center board;]~~ as provided in Subsection 26B-6-507(2); ~~[and]~~

(ix) except as provided in Subsection (2)(c), convey, lease, or dispose of division-owned real property for fair market value, as determined by the division; and

~~[(ix)] (x)~~ take all other action that the division is required to do under this chapter or other applicable statute.

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(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if ~~[the acquisition cost]~~:

(i) the acquisition cost does not exceed \$500,000[-], as estimated by the division; or

(ii) the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(ix).

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; ~~[and]~~

(c) convey, lease, or dispose of vacant division-owned real property for less than fair market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property; and

~~[(c)]~~ (d) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

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

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

(d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of

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the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section ~~{4}~~3. Section **63A-5b-806** is amended to read:

63A-5b-806. Division rules on the value of property bought or exchanged --

Exception.

(1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the value of the real property is congruent with the proposed price and other terms of the purchase or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the real property's value; and

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined in Section 61-2g-102.

(3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of real property, or an interest in real property[;]:

(a) with a value of less than \$500,000, as estimated by the division[;]; or

(b) if the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection 63A-5b-303(1)(a)(ix).

Section ~~{5}~~4. Section **63A-5b-902** is amended to read:

63A-5b-902. Application of part.

(1) [The] Except as stated in Subsection (1)(e), the provisions of this part, other than this section, do not apply to:

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(a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)(viii);
(b) the division's disposal or lease of division-owned property ~~[with]~~ that would otherwise be subject to this part, if the division-owned property has a value under \$500,000, as estimated by the division;

(c) a conveyance, lease, or disposal of division-owned property in connection with:

(i) the establishment of a state store, as defined in Section 32B-1-102; or

(ii) the construction of student housing; ~~[or]~~

(d) a conveyance, lease, or disposal of any part of the point of the mountain state land, as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in Section 11-59-201~~[-];~~ or

(e) a conveyance, lease, or disposal of division-owned property for fair market value, as determined by the division, under Subsection 63A-5b-303(1)(a)(ix), except that the following sections apply:

(i) Section 63A-5b-907.5;

(ii) Section 63A-5b-908;

(iii) Section 63A-5b-910;

(iv) Section 63A-5b-911; and

(v) Section 63A-5b-912.

(2) Nothing in Subsection ~~[(1)(b) or (c)]~~ (1)(b), (c), or (e) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Section ~~63A-5b-904~~ 63A-5b-905. Section **63A-5b-904** is amended to read:

63A-5b-904. Division authority with respect to vacant division-owned property -- Limitations.

(1) Subject to Section 63A-5b-909, the division may:

(a) provide for a primary state agency's occupancy or use of vacant division-owned property, if the director determines that the primary state agency's occupancy or use is in the best interests of the state;

(b) effect a transfer of ownership or lease of vacant division-owned property, as provided in this section; or

(c) refer vacant division-owned property to the Department of Transportation for sale

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by auction, as provided in Section 63A-5b-908.

~~[(2)(a) The division may effect a transfer of ownership or lease of vacant division-owned property to an applicant for fair market value if the director determines that the transfer of ownership or lease to that applicant is in the state's best interest.]~~

~~[(b) In determining the state's best interest under Subsection (2)(a), the director may consider:]~~

~~[(i) the price and financial terms of all qualified proposals; and]~~

~~[(ii) the relative benefits to the state of the proposed uses of the vacant division-owned property as stated in the qualified proposals.]~~

~~[(3)]~~ (2) The division may effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return if:

(a) the director determines that the transfer of ownership or lease is in the best interests of the state;

(b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;

(c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the transfer of ownership or lease.

~~[(4)]~~ (3) (a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, the division shall require the documents memorializing the transfer of ownership to preserve to the division:

(i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or

(ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the property from the transferee for the

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same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.

(b) Subsection [~~(4)(a)~~] (3)(a) does not apply to the sale of vacant division-owned property at an auction under Section 63A-5b-908.

Section ~~(7)~~6. Section **63A-5b-905** is amended to read:

63A-5b-905. Notice required before division may effect a transfer of ownership or lease of division-owned property for less than fair market value.

(1) Before the division may effect a transfer of ownership or lease of vacant division-owned property for less than fair market value, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

- (a) identify and describe the vacant division-owned property;
- (b) indicate the availability of the vacant division-owned property;
- (c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;
- (d) indicate the deadline for submitting a written proposal;
- (e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;
- (f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at least 60 consecutive days before the deadline for submitting a written proposal; and
- (g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Section ~~(8)~~7. Section **63A-5b-908** is amended to read:

63A-5b-908. Referring vacant division-owned property to the Department of Transportation for auction.

(1) The division may refer vacant division-owned property to the Department of Transportation for a public auction if:

(a) [~~(f)~~] for a conveyance, lease, or disposal of vacant division-owned property for less than fair market value:

(i) the division has provided notice under Section 63A-5b-905 with respect to the

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vacant division-owned property; and

(ii) the division receives no qualified proposals in response to the notice under Section 63A-5b-905;

(b) the director determines that:

(i) there is no reasonable likelihood that within the foreseeable future:

(A) a primary state agency will use or occupy the vacant division-owned property; or

(B) a secondary state agency, local government entity, or public purpose nonprofit entity will seek a transfer of ownership or lease of the vacant division-owned property; and

(ii) disposing of the vacant division-owned property through a public auction is in the best interests of the state;

(c) the director requests and receives a recommendation on the proposed public auction from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the public auction.

(2) If the division refers a vacant division-owned property to the Department of Transportation for public auction, the Department of Transportation shall publicly auction the vacant division-owned property under the same law and in the same manner that apply to a public auction of Department of Transportation property.

(3) At a public auction conducted under Subsection (2), the Department of Transportation may, on behalf of the division, accept an offer to purchase the vacant division-owned property.

(4) The division and the Department of Transportation shall coordinate together to:

(a) manage the details of finalizing any sale of the vacant division-owned property at public auction; and

(b) ensure that the buyer acquires proper title and that the division receives the net proceeds of the sale.

(5) If a public auction under this section does not result in a sale of the vacant division-owned property, the Department of Transportation shall notify the division and refer the vacant division-owned property back to the division.

Section ~~9~~8. Section **63A-5b-909** is amended to read:

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63A-5b-909. State real property subject to right of first refusal.

(1) (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).

(b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:

(i) comply with the requirements of Section 78B-6-520.3; and

(ii) terminate any process [~~under this chapter~~] to convey the vacant division-owned property.

(c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.

(2) (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of Subsections 78B-6-521(2) and (3).

(b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in Subsection 78B-6-521(2)(a), the division shall:

(i) sell the vacant division-owned property to the original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, in accordance with Section 78B-6-521; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) An original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property [~~under the provisions of this chapter~~] in the same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

Section ~~10~~9. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

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(2) The actions affecting Section 63A-5b-303 (Effective 07/01/2024) take effect on July 1, 2024.