

1 **DEPARTMENT OF ADMINISTRATIVE SERVICES**

2 **MODIFICATIONS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stephen D. Clark**

6 Senate Sponsor: Wayne L. Niederhauser

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Utah Administrative Services Code and the Division of
11 Administrative Rules part to address operating a division within the Department of
12 Administrative Services as an internal service fund agency.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides that subject to certain limitations the Department of Administrative
16 Services may operate a division within the department, except for the Office of
17 State Debt Collection, as an internal service fund agency;
- 18 ▶ provides that a division that manages an internal service fund shall submit to the
19 Rate Committee:
- 20 • a proposed rate and fee schedule for certain services rendered by the division;
 - 21 and
 - 22 • other information or analysis requested by the Rate Committee; and
- 23 ▶ makes technical and conforming changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-1-114**, as last amended by Laws of Utah 2009, Chapters 104 and 183

31 **63A-3-103**, as last amended by Laws of Utah 2003, Chapter 78

32 **63A-11-104**, as last amended by Laws of Utah 2006, Chapter 76

33 **63A-12-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382

34 **63G-3-402**, as renumbered and amended by Laws of Utah 2008, Chapter 382

35 ENACTS:

36 **63A-1-109.5**, Utah Code Annotated 1953



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

39 Section 1. Section **63A-1-109.5** is enacted to read:

40 **63A-1-109.5. Department authority to operate divisions as an internal service**
41 **fund agency -- Exception.**

42 (1) Except as provided in Subsection (2) and subject to Section 63A-1-114 and
43 provisions governing internal service funds or internal service fund agencies under Title 63J,
44 Chapter 1, Budgetary Procedures Act, the department may operate a division described in
45 Section 63A-1-109 as an internal service fund agency.

46 (2) The department may not operate the division described in Subsection
47 63A-1-109(1)(f) as an internal service fund agency.

48 Section 2. Section **63A-1-114** is amended to read:

49 **63A-1-114. Rate Committee -- Membership -- Duties.**

50 (1) (a) There is created a Rate Committee which shall consist of:

- 51 (i) the director of the Governor's Office of Planning and Budget, or a designee;
- 52 (ii) the executive directors of three state agencies that use services and pay rates to one
- 53 of the department internal service funds, or their designee, appointed by the governor for a
- 54 two-year term;

55 (iii) the executive director of the Department of Administrative Services, or a designee;

56 (iv) the director of the Division of Finance, or a designee; and

57 (v) the chief information officer.

58 (b) (i) The committee shall elect a chair from its members, except that the chair may

59 not be from an agency that receives payment of a rate set by the committee.

60 (ii) Members of the committee who are state government employees and who do not
61 receive salary, per diem, or expenses from their agency for their service on the committee shall
62 receive no compensation, benefits, per diem, or expenses for the members' service on the
63 committee.

64 (c) The Department of Administrative Services shall provide staff services to the
65 committee.

66 (2) (a) ~~[The]~~ A division described in Section 63A-1-109 that manages an internal
67 service ~~[funds managed by the following divisions]~~ fund shall submit to the committee a
68 proposed rate and fee schedule for services rendered by the ~~[divisions]~~ division to an executive
69 branch entity or an entity that subscribes to services rendered by the division~~[-, the:]~~.

70 ~~[(i) Division of Facilities Construction and Management;]~~

71 ~~[(ii) Division of Fleet Operations;]~~

72 ~~[(iii) Division of Purchasing and General Services; and]~~

73 ~~[(iv) Division of Risk Management.]~~

74 (b) The committee shall:

75 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
76 Act;

77 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
78 the rate and fee;

79 (iii) recommend a proposed rate and fee schedule for each internal service fund to:

80 (A) the Governor's Office of Planning and Budget; and

81 (B) the legislative appropriations subcommittees that, in accordance with Section
82 63J-1-410, approve the internal service fund agency's rates, fees, and budget; and

83 (iv) review and approve, increase or decrease an interim rate, fee, or amount when an
84 internal service fund agency begins a new service or introduces a new product between annual
85 general sessions of the Legislature.

86 (c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate,
87 fee, or amount that has been approved by the Legislature.

88 Section 3. Section **63A-3-103** is amended to read:

89 **63A-3-103. Duties of director of division -- Application to institutions of higher**

90 **education.**

- 91 (1) The director of the Division of Finance shall:
- 92 (a) define fiscal procedures relating to approval and allocation of funds;
- 93 (b) provide for the accounting control of funds;
- 94 (c) approve proposed expenditures for the purchase of supplies and services;
- 95 (d) promulgate rules that:
- 96 (i) establish procedures for maintaining detailed records of all types of leases;
- 97 (ii) account for all types of leases in accordance with generally accepted accounting
- 98 principles;
- 99 (iii) require the performance of a lease with an option to purchase study by state
- 100 agencies prior to any lease with an option to purchase acquisition of capital equipment; and
- 101 (iv) require that the completed lease with an option to purchase study be approved by
- 102 the director of the Division of Finance; ~~and~~
- 103 (e) if the department operates the Division of Finance as an internal service fund
- 104 agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in
- 105 Section 63A-1-114:
- 106 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
- 107 (ii) other information or analysis requested by the Rate Committee; and
- 108 ~~(f)~~ (f) prescribe other fiscal functions required by law or under the constitutional
- 109 authority of the governor to transact all executive business for the state.
- 110 (2) (a) Institutions of higher education are subject to the provisions of Title 63A,
- 111 Chapter 3, Part 1, General Provisions, and Part 2, Accounting System, only to the extent
- 112 expressly authorized or required by the State Board of Regents under Title 53B, State System
- 113 of Higher Education.
- 114 (b) Institutions of higher education shall submit financial data for the past fiscal year
- 115 conforming to generally accepted accounting principles to the director of the Division of
- 116 Finance.
- 117 (3) The Division of Finance shall prepare financial statements and other reports in
- 118 accordance with legal requirements and generally accepted accounting principles for the state
- 119 auditor's examination and certification:
- 120 (a) not later than 60 days after a request from the state auditor; and

121 (b) at the end of each fiscal year.

122 Section 4. Section **63A-11-104** is amended to read:

123 **63A-11-104. Office director -- Appointment -- Duties -- Staff.**

124 (1) Except as provided in Subsection (2):

125 (a) The executive director of the department shall appoint the director of the office
126 with the approval of the governor.

127 (b) The director shall be an attorney licensed to practice law in the state.

128 (2) Notwithstanding Subsection (1), if the executive director does not appoint a
129 director of the office, the executive director:

130 (a) shall be the director of the office;

131 (b) is not required to be an attorney;

132 (c) may not engage in the practice of law, unless the executive director is an attorney
133 licensed to practice law in the state; and

134 (d) may not receive a salary from the state in excess of the salary established for the
135 executive director by the governor under Section 67-22-2.

136 (3) The director shall:

137 (a) administer and enforce this chapter; [~~and~~]

138 (b) manage the operation and budget of the office[-]; and

139 (c) if the department operates the office as an internal service fund agency in
140 accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section
141 63A-1-114:

142 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and

143 (ii) other information or analysis requested by the Rate Committee.

144 (4) The director may employ staff.

145 Section 5. Section **63A-12-101** is amended to read:

146 **63A-12-101. Division of Archives and Records Service created -- Duties.**

147 (1) There is created the Division of Archives and Records Service within the
148 Department of Administrative Services.

149 (2) The state archives shall:

150 (a) administer the state's archives and records management programs, including storage
151 of records, central microphotography programs, and quality control;

152 (b) apply fair, efficient, and economical management methods to the collection,
153 creation, use, maintenance, retention, preservation, disclosure, and disposal of records and
154 documents;

155 (c) establish standards, procedures, and techniques for the effective management and
156 physical care of records;

157 (d) conduct surveys of office operations and recommend improvements in current
158 records management practices, including the use of space, equipment, automation, and supplies
159 used in creating, maintaining, storing, and servicing records;

160 (e) establish standards for the preparation of schedules providing for the retention of
161 records of continuing value and for the prompt and orderly disposal of state records no longer
162 possessing sufficient administrative, historical, legal, or fiscal value to warrant further
163 retention;

164 (f) establish, maintain, and operate centralized microphotography lab facilities and
165 quality control for the state;

166 (g) provide staff and support services to the records committee;

167 (h) develop training programs to assist records officers and other interested officers and
168 employees of governmental entities to administer this chapter and Title 63G, Chapter 2,
169 Government Records Access and Management Act;

170 (i) provide access to public records deposited in the archives;

171 (j) administer and maintain the Utah Public Notice Website established under Section
172 63F-1-701;

173 (k) provide assistance to any governmental entity in administering this chapter and
174 Title 63G, Chapter 2, Government Records Access and Management Act; ~~and~~

175 (l) prepare forms for use by all governmental entities for a person requesting access to
176 a record[-]; and

177 (m) if the department operates the Division of Archives and Records Service as an
178 internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate
179 Committee established in Section 63A-1-114:

180 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and

181 (ii) other information or analysis requested by the Rate Committee.

182 (3) The state archives may:

- 183 (a) establish a report and directives management program; and
184 (b) establish a forms management program.

185 (4) The executive director of the Department of Administrative Services may direct the
186 state archives to administer other functions or services consistent with this chapter and Title
187 63G, Chapter 2, Government Records Access and Management Act.

188 Section 6. Section **63G-3-402** is amended to read:

189 **63G-3-402. Division of Administrative Rules -- Duties generally.**

190 (1) The Division of Administrative Rules shall:

191 (a) establish all filing, publication, and hearing procedures necessary to make rules
192 under this chapter;

193 (b) record in a register the receipt of all agency rules, rule analysis forms, and notices
194 of effective dates;

195 (c) make the register, copies of all proposed rules, and rulemaking documents available
196 for public inspection;

197 (d) publish all proposed rules, rule analyses, notices of effective dates, and review
198 notices in the bulletin at least monthly, except that the division may publish the complete text
199 of any proposed rule that the director determines is too long to print or too expensive to publish
200 by reference to the text maintained by the division;

201 (e) compile, format, number, and index all effective rules in an administrative code,
202 and periodically publish that code and supplements or revisions to it;

203 (f) publish a digest of all rules and notices contained in the most recent bulletin;

204 (g) publish at least annually an index of all changes to the administrative code and the
205 effective date of each change;

206 (h) print, or contract to print, all rulemaking publications the division determines
207 necessary to implement this chapter;

208 (i) distribute without charge the bulletin and administrative code to state-designated
209 repositories, the Administrative Rules Review Committee, the Office of Legislative Research
210 and General Counsel, and the two houses of the Legislature;

211 (j) distribute without charge the digest and index to state legislators, agencies, political
212 subdivisions on request, and the Office of Legislative Research and General Counsel;

213 (k) distribute, at prices covering publication costs, all paper rulemaking publications to

214 all other requesting persons and agencies;

215 (l) provide agencies assistance in rulemaking; [~~and~~]

216 (m) if the Department of Administrative Services operates the division as an internal
217 service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee
218 established in Section 63A-1-114:

219 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and

220 (ii) other information or analysis requested by the Rate Committee; and

221 [~~(m)~~] (n) administer this chapter and require state agencies to comply with filing,
222 publication, and hearing procedures.

223 (2) The division may after notifying the agency make nonsubstantive changes to rules
224 filed with the division or published in the bulletin or code by:

225 (a) implementing a uniform system of formatting, punctuation, capitalization,
226 organization, numbering, and wording;

227 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,
228 numbering, referencing, and wording;

229 (c) changing a catchline to more accurately reflect the substance of each section, part,
230 rule, or title;

231 (d) updating or correcting annotations associated with a section, part, rule, or title; and

232 (e) merging or determining priority of any amendment, enactment, or repeal to the
233 same rule or section made effective by an agency.

234 (3) In addition, the division may make the following nonsubstantive changes with the
235 concurrence of the agency:

236 (a) eliminate duplication within rules;

237 (b) eliminate obsolete and redundant words; and

238 (c) correcting defective or inconsistent section and paragraph structure in arrangement
239 of the subject matter of rules.

240 (4) For nonsubstantive changes made in accordance with Subsection (2) or (3) after
241 publication of the rule in the bulletin, the division shall publish a list of nonsubstantive changes
242 in the bulletin. For each nonsubstantive change, the list shall include:

243 (a) the affected code citation;

244 (b) a brief description of the change; and

245 (c) the date the change was made.

246 (5) All funds appropriated or collected for publishing the division's publications shall

247 be nonlapsing.

Legislative Review Note
as of 2-18-10 12:07 PM

Office of Legislative Research and General Counsel

H.B. 402 - Department of Administrative Services Modifications

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
