

STATE FAIR PARK AMENDMENTS

2016 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Sandra Hollins

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies provisions related to the state fair park.

Highlighted Provisions:

This bill:

- ▶ modifies the circumstances under which a local political subdivision or private entity may impose an impact fee;
- ▶ authorizes the Division of Facilities Construction and Management to contract for the design and construction of an arena at the state fair park;
- ▶ addresses the process by which the Division of Facilities Construction and Management shall contract for the design and construction of the arena; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to Capital Budget - Capital Development - Other State Government - State Fair Park Arena, as a one-time appropriation:
 - from the General Fund, one-time, \$10,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-36a-202, as enacted by Laws of Utah 2011, Chapter 47

63H-6-108, as enacted by Laws of Utah 2016, Chapter 301

30 **63I-2-263**, as last amended by Laws of Utah 2016, Chapter 318

31 ENACTS:

32 **63A-5-227**, Utah Code Annotated 1953

33

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

35 Section 1. Section **11-36a-202** is amended to read:

36 **11-36a-202. Prohibitions on impact fees.**

37 (1) A local political subdivision or private entity may not:

38 (a) impose an impact fee to:

39 (i) cure deficiencies in a public facility serving existing development;

40 (ii) raise the established level of service of a public facility serving existing
41 development;

42 (iii) recoup more than the local political subdivision's or private entity's costs actually
43 incurred for excess capacity in an existing system improvement; or

44 (iv) include an expense for overhead, unless the expense is calculated pursuant to a
45 methodology that is consistent with:

46 (A) generally accepted cost accounting practices; and

47 (B) the methodological standards set forth by the federal Office of Management and
48 Budget for federal grant reimbursement;

49 (b) delay the construction of a school or charter school because of a dispute with the
50 school or charter school over impact fees; or

51 (c) impose or charge any other fees as a condition of development approval unless
52 those fees are a reasonable charge for the service provided.

53 (2) (a) Notwithstanding any other provision of this chapter, a political subdivision or
54 private entity may not impose an impact fee:

55 (i) on residential components of development to pay for a public safety facility that is a
56 fire suppression vehicle;

57 (ii) on a school district or charter school for a park, recreation facility, open space, or

58 trail;

59 (iii) on a school district or charter school unless:

60 (A) the development resulting from the school district's or charter school's
61 development activity directly results in a need for additional system improvements for which
62 the impact fee is imposed; and

63 (B) the impact fee is calculated to cover only the school district's or charter school's
64 proportionate share of the cost of those additional system improvements; [~~or~~]

65 (iv) to the extent that the impact fee includes a component for a law enforcement
66 facility, on development activity for:

67 (A) the Utah National Guard;

68 (B) the Utah Highway Patrol; or

69 (C) a state institution of higher education that has its own police force[~~;~~]; or

70 (v) on development activity on the state fair park, as defined in Section 63H-6-102.

71 (b) (i) Notwithstanding any other provision of this chapter, a political subdivision or
72 private entity may not impose an impact fee on development activity that consists of the
73 construction of a school, whether by a school district or a charter school, if:

74 (A) the school is intended to replace another school, whether on the same or a different
75 parcel;

76 (B) the new school creates no greater demand or need for public facilities than the
77 school or school facilities, including any portable or modular classrooms that are on the site of
78 the replaced school at the time that the new school is proposed; and

79 (C) the new school and the school being replaced are both within the boundary of the
80 local political subdivision or the jurisdiction of the private entity.

81 (ii) If the imposition of an impact fee on a new school is not prohibited under
82 Subsection (2)(b)(i) because the new school creates a greater demand or need for public
83 facilities than the school being replaced, the impact fee shall be based only on the demand or
84 need that the new school creates for public facilities that exceeds the demand or need that the
85 school being replaced creates for those public facilities.

86 (c) Notwithstanding any other provision of this chapter, a political subdivision or
87 private entity may impose an impact fee for a road facility on the state only if and to the extent
88 that:

- 89 (i) the state's development causes an impact on the road facility; and
- 90 (ii) the portion of the road facility related to an impact fee is not funded by the state or
91 by the federal government.

92 (3) Notwithstanding any other provision of this chapter, a local political subdivision
93 may impose and collect impact fees on behalf of a school district if authorized by Section
94 [53A-20-100.5](#).

95 Section 2. Section **63A-5-227** is enacted to read:

96 **63A-5-227. Contract for the design and construction of a state fair park arena.**

97 (1) The division may enter into a contract for the design and construction of an
98 approximately 10,000 chair-seat arena at the state fair park, as defined in Section [63H-6-102](#),
99 without engaging in a standard procurement process, as defined in Section [63G-6a-103](#), and
100 without using a procurement process described in Title 63G, Chapter 6a, Part 8, Exceptions to
101 Procurement Requirements, if:

- 102 (a) the state is not obligated to pay more than 65% of the cost of the arena;
- 103 (b) the contract does not provide for the payment of a developer fee; and
- 104 (c) the contract requires the construction of the arena to be completed no later than July
105 1, 2017.

106 (2) In contracting for the design and construction of an arena under Subsection (1), the
107 division shall:

- 108 (a) ensure that the process of selecting subcontractors and vendors for the construction
109 project includes as much competition as reasonably possible while meeting the construction
110 completion deadline of July 1, 2017; and
- 111 (b) use the division's best efforts to ensure the best value to the state under the contract.

112 Section 3. Section **63H-6-108** is amended to read:

113 **63H-6-108. Operation of the state fair park.**

- 114 (1) The corporation shall:
- 115 (a) operate and maintain the state fair park in accordance with the facility maintenance
116 standards approved by the State Building Board;
- 117 (b) pay for all costs associated with operating and maintaining the state fair park;
- 118 (c) obtain approval from the division before the corporation commences capital
119 developments or capital improvements on the state fair park that involve:
- 120 (i) a construction project that costs more than \$250,000; or
- 121 (ii) the construction of a new building that costs more than \$1,000,000;
- 122 (d) obtain a building permit from the division before commencing an activity that
123 requires a building permit;
- 124 (e) ensure that:
- 125 (i) any design plan related to the state fair park satisfies any applicable design standards
126 established by the division or the State Building Board; and
- 127 (ii) construction performed on the state fair park satisfies any applicable construction
128 standards established by the division or the State Building Board;
- 129 (f) for any new construction project on the state fair park that costs \$250,000 or more:
- 130 (i) notify the division before commencing the new construction project; and
- 131 (ii) coordinate with the division regarding review of design plans and construction
132 management;
- 133 (g) obtain approval from the division before the corporation makes any alteration or
134 addition to the water system, heating system, plumbing system, air conditioning system, or
135 electrical system;
- 136 (h) obtain approval from the State Building Board before the corporation demolishes a
137 building or facility on the state fair park;
- 138 (i) keep the state fair park fully insured to protect against loss or damage by fire,
139 vandalism, or malicious mischief;
- 140 (j) in accordance with Subsection (3), at the corporation's expense, and for the mutual
141 benefit of the division, maintain general public liability insurance in an amount equal to at least

142 \$1,000,000 through one or more companies that are:

143 (i) licensed to do business in the state;

144 (ii) selected by the corporation; and

145 (iii) approved by the division and the Division of Risk Management;

146 (k) ensure that the division is an additional insured with primary coverage on each
147 insurance policy that the corporation obtains in accordance with this section;

148 (l) give the division notice at least 30 days before the day on which the corporation
149 cancels any insurance policy that the corporation obtains in accordance with this section; and

150 (m) if any lien is recorded or filed against the state fair park as a result of an act or
151 omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the
152 day on which the corporation receives notice of the lien.

153 (2) The State Building Board shall notify the State Historic Preservation Office of any
154 State Building Board meeting at which the State Building Board will consider approval to
155 demolish a facility on the state fair park.

156 (3) The general public liability insurance described in Subsection (1)(j) shall:

157 (a) insure against any claim for personal injury, death, or property damage that occurs
158 at the state fair park; and

159 (b) be a blanket policy that covers all activities of the corporation.

160 (4) The division shall administer any capital improvements on the state fair park that
161 cost more than \$250,000.

162 (5) Upon 24 hours notice to the corporation, the division may enter the state fair park
163 to inspect the state fair park and make any repairs that the division determines necessary.

164 (6) If the corporation no longer operates as an independent public nonprofit corporation
165 as described in this chapter, the state shall assume the responsibilities of the corporation under
166 any contract that is:

167 (a) in effect as of the day on which the status of the corporation changes; and

168 (b) for the lease, construction, or development of a building or facility on the state fair
169 park.

170 (7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the
171 corporation.

172 (b) The state is not liable and assumes no responsibility for any debt or obligation
173 described in Subsection (7)(a), unless the Legislature expressly:

174 (i) authorizes the corporation to contract for the debt or obligation; and

175 (ii) accepts liability or assumes responsibility for the debt or obligation.

176 (8) The provisions of this section apply notwithstanding any contrary provision in Title
177 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management.

178 Section 4. Section **63I-2-263** is amended to read:

179 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

180 [~~(1) Section 63A-5-104.1 is repealed on January 1, 2016.~~]

181 [~~(2) Section 63C-9-501.1 is repealed on July 1, 2015.~~]

182 [~~(3) Title 63C, Chapter 15, Prison Relocation Commission, is repealed on January 1,
183 2016.~~]

184 [~~(4) Subsection 63N-3-103(1)(d) is repealed on July 1, 2015.~~]

185 (1) Section 63A-5-227 is repealed on January 1, 2018.

186 [~~(5)~~] (2) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

187 [~~(6)~~] (3) Section 63N-3-110 is repealed July 1, 2020.

188 [~~(7) Subsection 63N-12-208(3) is repealed on January 1, 2016.~~]

189 Section 5. **Appropriation.**

190 The following sums of money are appropriated for the fiscal year beginning July 1,
191 2016, and ending June 30, 2017. These are additions to amounts previously appropriated for
192 fiscal year 2017. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
193 Act, the Legislature appropriates the following sums of money from the funds or accounts
194 indicated for the use and support of the government of the State of Utah.

195 Item 1 To Capital Budget - Capital Development - Other State Government - State Fair
196 Park Arena

197 From General Fund, One-time \$10,000,000

198 Schedule of Programs:

199 State Fair Park Arena \$10,000,000

200 The Legislature intends that the Division of Facilities Construction and Management
201 use the appropriation under this section for the design and construction of an arena in
202 accordance with Section [63A-5-227](#). The Legislature intends that at least 35% of the amounts
203 necessary to design and construct the arena come from non-state sources. The Legislature
204 anticipates that up to 25% of the amounts from other sources will not be available until near the
205 completion date of the arena.

206 Section 6. **Effective date.**

207 If approved by two-thirds of all the members elected to each house, this bill takes effect
208 upon approval by the governor, or the day following the constitutional time limit of Utah
209 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
210 the date of veto override.