

Senator Margaret Dayton proposes the following substitute bill:

STATE REAL PROPERTY AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

LONG TITLE

General Description:

This bill establishes notification and protest requirements for a proposed municipal boundary adjustment that affects state-owned real property.

Highlighted Provisions:

This bill:

- ▶ requires a municipality to provide notice of a proposed municipal boundary change that affects state-owned real property;
- ▶ requires the Utah State Developmental Center Board to provide an opinion of a proposed municipal boundary change that affects state-owned real property affiliated with the Utah State Developmental Center;
- ▶ directs the director of the Division of Facilities and Construction Management to protest a municipal boundary adjustment, under specified circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **10-2-419**, as last amended by Laws of Utah 2010, Chapter 90

28 **62A-5-202.5**, as enacted by Laws of Utah 2016, Chapter 300

29 **63A-5-204**, as last amended by Laws of Utah 2017, Chapter 56

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

32 Section 1. Section **10-2-419** is amended to read:

33 **10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

34 (1) The legislative bodies of two or more municipalities having common boundaries
35 may adjust their common boundaries as provided in this section.

36 (2) ~~[(a)]~~ The legislative body of each municipality intending to adjust a boundary that
37 is common with another municipality shall:

38 ~~[(i)]~~ (a) adopt a resolution indicating the intent of the municipal legislative body to
39 adjust a common boundary;

40 ~~[(ii)]~~ (b) hold a public hearing on the proposed adjustment no less than 60 days after
41 the adoption of the resolution under Subsection (2)(a)~~[(i); and]~~;

42 ~~[(iii)-(A)]~~ (c) publish notice:

43 ~~[(F)]~~ (i) (A) at least once a week for three successive weeks in a newspaper of general
44 circulation within the municipality; or

45 ~~[(H)]~~ (B) if there is no newspaper of general circulation within the municipality, post at
46 least one notice per 1,000 population in places within the municipality that are most likely to
47 give notice to residents of the municipality; and

48 ~~[(B)]~~ (ii) on the Utah Public Notice Website created in Section **63F-1-701** for three
49 weeks~~[-]; and~~

50 (d) if the proposed boundary adjustment may cause any part of real property owned by
51 the state to be within the geographic boundary of a different local governmental entity than
52 before the adjustment, provide written notice, at least 50 days before the public hearing
53 described in Subsection (2)(b), to:

54 (i) the title holder of any state-owned real property described in this Subsection (2)(d);
55 and

56 (ii) the Utah State Developmental Center Board, created under Section **62A-5-202**, if

57 any state-owned real property described in this Subsection (2)(d) is associated with the Utah
 58 State Developmental Center.

59 ~~[(b)]~~ (3) The notice required under ~~[Subsection (2)(a)(iii)]~~ Subsections (2)(c) and (d)
 60 shall:

61 ~~[(i)]~~ (a) state that the municipal legislative body has adopted a resolution indicating the
 62 municipal legislative body's intent to adjust a boundary that the municipality has in common
 63 with another municipality;

64 ~~[(ii)]~~ (b) describe the area proposed to be adjusted;

65 ~~[(iii)]~~ (c) state the date, time, and place of the public hearing required under Subsection
 66 ~~[(2)(a)(ii)]~~ (2)(b);

67 ~~[(iv)]~~ (d) state in conspicuous and plain terms that the municipal legislative body will
 68 adjust the boundaries unless, at or before the public hearing under Subsection ~~[(2)(a)(ii);~~
 69 ~~written protests]~~ (2)(b), a written protest to the adjustment ~~[are]~~ is filed by ~~[the owners]~~;

70 (i) an owner of private real property that:

71 (A) is located within the area proposed for adjustment;

72 (B) covers at least 25% of the total private land area within the area proposed for
 73 adjustment; and

74 (C) is equal in value to at least 15% of the value of all private real property within the
 75 area proposed for adjustment; or

76 (ii) a title holder of state-owned real property described in Subsection (2)(d);

77 ~~[(v)]~~ (e) state that the area that is the subject of the boundary adjustment will, because
 78 of the boundary adjustment, be automatically annexed to a local district providing fire
 79 protection, paramedic, and emergency services or a local district providing law enforcement
 80 service, as the case may be, as provided in Section 17B-1-416, if:

81 ~~[(A)]~~ (i) the municipality to which the area is being added because of the boundary
 82 adjustment is entirely within the boundaries of a local district:

83 ~~[(i)]~~ (A) that provides fire protection, paramedic, and emergency services or law
 84 enforcement service, respectively; and

85 ~~[(ii)]~~ (B) in the creation of which an election was not required because of Subsection
 86 17B-1-214(3)(c); and

87 ~~[(B)]~~ (ii) the municipality from which the area is being taken because of the boundary

88 adjustment is not within the boundaries of the local district; and

89 ~~[(vi)]~~ (f) state that the area proposed for annexation to the municipality will be
90 automatically withdrawn from a local district providing fire protection, paramedic, and
91 emergency services, as provided in Subsection 17B-1-502(2), if:

92 ~~[(A)]~~ (i) the municipality to which the area is being added because of the boundary
93 adjustment is not within the boundaries of a local district:

94 ~~[(H)]~~ (A) that provides fire protection, paramedic, and emergency services; and

95 ~~[(H)]~~ (B) in the creation of which an election was not required because of Subsection
96 17B-1-214(3)(c); and

97 ~~[(B)]~~ (ii) the municipality from which the area is being taken because of the boundary
98 adjustment is entirely within the boundaries of the local district.

99 ~~[(e)]~~ (4) The first publication of the notice required under Subsection ~~[(2)(a)(iii)(A)]~~
100 (2)(c)(i)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution
101 under Subsection (2)(a)~~[(f)]~~.

102 ~~[(3)]~~ (5) Upon conclusion of the public hearing under Subsection ~~[(2)(a)(ii)]~~ (2)(b), the
103 municipal legislative body may adopt an ordinance approving the adjustment of the common
104 boundary unless, at or before the hearing under Subsection ~~[(2)(a)(ii), written protests]~~ (2)(b), a
105 written protest to the adjustment ~~[have been]~~ is filed with the city recorder or town clerk~~[, as~~
106 ~~the case may be, by the owners of private real property that:]~~ by a person described in
107 Subsection (2)(d)(i) or (ii).

108 ~~[(a) is located within the area proposed for adjustment;]~~

109 ~~[(b) covers at least 25% of the total private land area within the area proposed for~~
110 ~~adjustment; and]~~

111 ~~[(c) is equal in value to at least 15% of the value of all private real property within the~~
112 ~~area proposed for adjustment.]~~

113 ~~[(4)]~~ (6) The municipal legislative body shall comply with the requirements of Section
114 10-2-425 as if the boundary adjustment were an annexation.

115 ~~[(5)]~~ (7) (a) An ordinance adopted under Subsection ~~[(3)]~~ (5) becomes effective when
116 each municipality involved in the boundary adjustment has adopted an ordinance under
117 Subsection ~~[(3)]~~ (5).

118 (b) The effective date of a boundary adjustment under this section is governed by

119 Section 10-2-425.

120 Section 2. Section 62A-5-202.5 is amended to read:

121 **62A-5-202.5. Utah State Developmental Center Board -- Creation -- Membership**
122 **-- Duties -- Powers.**

123 (1) There is created the Utah State Developmental Center Board within the Department
124 of Human Services.

125 (2) The board is composed of nine members as follows:

126 (a) the director of the division or the director's designee;

127 (b) the superintendent of the developmental center or the superintendent's designee;

128 (c) the executive director of the Department of Human Services or the executive
129 director's designee;

130 (d) a resident of the developmental center selected by the superintendent; and

131 (e) five members appointed by the governor with the advice and consent of the Senate
132 as follows:

133 (i) three members of the general public; and

134 (ii) two members who are parents or guardians of individuals who receive services at
135 the developmental center.

136 (3) In making appointments to the board, the governor shall ensure that:

137 (a) no more than three members have immediate family residing at the developmental
138 center; and

139 (b) members represent a variety of geographic areas and economic interests of the state.

140 (4) (a) The governor shall appoint each member described in Subsection (2)(e) for a
141 term of four years.

142 (b) An appointed member may not serve more than two full consecutive terms unless
143 the governor determines that an additional term is in the best interest of the state.

144 (c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall,
145 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
146 of appointed members are staggered so that approximately half of the appointed members are
147 appointed every two years.

148 (d) Appointed members shall continue in office until the expiration of their terms and
149 until their successors are appointed, which may not exceed 120 days after the formal expiration

150 of a term.

151 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
152 appointed for the unexpired term.

153 (5) (a) The director shall serve as the chair.

154 (b) The board shall appoint a member to serve as vice chair.

155 (c) The board shall hold meetings quarterly or as needed.

156 (d) Five members are necessary to constitute a quorum at any meeting, and, if a
157 quorum exists, the action of the majority of members present shall be the action of the board.

158 (e) The chair shall be a non-voting member except that the chair may vote to break a tie
159 vote between the voting members.

160 (6) An appointed member may not receive compensation or benefits for the member's
161 service, but, at the executive director's discretion, may receive per diem and travel expenses in
162 accordance with:

163 (a) Section 63A-3-106;

164 (b) Section 63A-3-107; and

165 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
166 63A-3-107.

167 (7) (a) The board shall adopt bylaws governing the board's activities.

168 (b) Bylaws shall include procedures for removal of a member who is unable or
169 unwilling to fulfill the requirements of the member's appointment.

170 (8) The board shall:

171 (a) act for the benefit of the developmental center and the division;

172 (b) advise and assist the division with the division's functions, operations, and duties
173 related to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201,
174 62A-5-203, and 62A-5-206;

175 (c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as
176 described in Section 62A-5-206.5;

177 (d) administer the Utah State Developmental Center Land Fund, as described in
178 Section 62A-5-206.6; ~~and~~

179 (e) approve the sale, lease, or other disposition of real property or water rights
180 associated with the developmental center, as described in Subsection 62A-5-206.6(5)~~[-]; and~~

181 (f) within 21 days after the day on which the board receives the notice required under
182 Subsection 10-2-419(2)(d), provide a written opinion regarding the proposed boundary
183 adjustment to:

184 (i) the director of the Division of Facilities and Construction Management; and

185 (ii) the Legislative Management Committee.

186 Section 3. Section 63A-5-204 is amended to read:

187 **63A-5-204. Specific powers and duties of director.**

188 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the
189 same meaning as provided in Section 63C-9-102.

190 (2) (a) The director shall:

191 (i) recommend rules to the executive director for the use and management of facilities
192 and grounds owned or occupied by the state for the use of its departments and agencies;

193 (ii) supervise and control the allocation of space, in accordance with legislative
194 directive through annual appropriations acts or other specific legislation, to the various
195 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
196 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
197 otherwise provided by law;

198 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,
199 Division of Facilities Construction and Management Leasing;

200 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
201 through the appropriations act or other specific legislation, and hold title to, in the name of the
202 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
203 agencies;

204 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
205 title to or interest in property belonging to the state or any of its departments, except
206 institutions of higher education and the School and Institutional Trust Lands Administration;

207 (vi) report all properties acquired by the state, except those acquired by institutions of
208 higher education, to the director of the Division of Finance for inclusion in the state's financial
209 records;

210 (vii) before charging a rate, fee, or other amount for services provided by the division's
211 internal service fund to an executive branch agency, or to a subscriber of services other than an

212 executive branch agency:

213 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee

214 established in Section [63A-1-114](#); and

215 (B) obtain the approval of the Legislature as required by Section [63J-1-410](#);

216 (viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of
217 proposed rates and fees, which analysis shall include a comparison of the division's rates and
218 fees with the fees of other public or private sector providers where comparable services and
219 rates are reasonably available;

220 (ix) implement the State Building Energy Efficiency Program under Section
221 [63A-5-701](#);

222 (x) convey, lease, or dispose of the real property or water rights associated with the
223 Utah State Developmental Center according to the Utah State Developmental Center Board's
224 determination, as described in Subsection [62A-5-206.6\(5\)](#); [~~and~~]

225 (xi) after receiving the notice required under Subsection [10-2-419\(2\)\(d\)](#), file a written
226 protest at or before the public hearing required under Subsection [10-2-419\(2\)\(b\)](#), if:

227 (A) it is in the best interest of the state to protest the boundary adjustment; or

228 (B) the Legislature instructs the director to protest the boundary adjustment; and

229 [~~(xi)~~] (xii) take all other action necessary for carrying out the purposes of this chapter.

230 (b) Legislative approval is not required for acquisitions by the division that cost less
231 than \$250,000.

232 (3) (a) The director shall direct or delegate maintenance and operations, preventive
233 maintenance, and facilities inspection programs and activities for any agency, except:

234 (i) the State Capitol Preservation Board; and

235 (ii) state institutions of higher education.

236 (b) The director may choose to delegate responsibility for these functions only when
237 the director determines that:

238 (i) the agency has requested the responsibility;

239 (ii) the agency has the necessary resources and skills to comply with facility
240 maintenance standards approved by the State Building Board; and

241 (iii) the delegation would result in net cost savings to the state as a whole.

242 (c) The State Capitol Preservation Board and state institutions of higher education are

243 exempt from Division of Facilities Construction and Management oversight.

244 (d) Each state institution of higher education shall comply with the facility
245 maintenance standards approved by the State Building Board.

246 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
247 exempt from division oversight shall annually report their compliance with the facility
248 maintenance standards to the division in the format required by the division.

249 (f) The division shall:

250 (i) prescribe a standard format for reporting compliance with the facility maintenance
251 standards;

252 (ii) report agency compliance or noncompliance with the standards to the Legislature;
253 and

254 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
255 complying with the standards.

256 (4) (a) In making any allocations of space under Subsection (2), the director shall:

257 (i) conduct studies to determine the actual needs of each agency; and

258 (ii) comply with the restrictions contained in this Subsection (4).

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

260 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
261 courts only.

262 (d) The director may not supervise or control the allocation of space for entities in the
263 public and higher education systems.

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

266 (5) The director may:

267 (a) hire or otherwise procure assistance and services, professional, skilled, or
268 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds
269 provided for that purpose either through annual operating budget appropriations or from
270 nonlapsing project funds;

271 (b) sue and be sued in the name of the division; and

272 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the
273 Legislature, whatever real or personal property that is necessary for the discharge of the

274 director's duties.

275 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may
276 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes
277 other than administration that are under their control and management:

278 (a) the Office of Trust Administrator;

279 (b) the Department of Transportation;

280 (c) the Division of Forestry, Fire, and State Lands;

281 (d) the Department of Natural Resources;

282 (e) the Utah National Guard;

283 (f) any area vocational center or other institution administered by the State Board of
284 Education;

285 (g) any institution of higher education; and

286 (h) the Utah Science Technology and Research Governing Authority.

287 (7) The director shall ensure that any firm performing testing and inspection work
288 governed by the American Society for Testing Materials Standard E-329 on public buildings
289 under the director's supervision shall:

290 (a) fully comply with the American Society for Testing Materials standard
291 specifications for agencies engaged in the testing and inspection of materials known as ASTM
292 E-329; and

293 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

294 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
295 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
296 held by it that are under its control.