

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

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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 a division 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  
56 designee;

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

58 (v) the chief information officer.

59 (b) (i) The committee shall elect a chair from its members, except that the chair may  
60 not be from an agency that receives payment of a rate set by the committee.

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

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

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

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

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

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

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

75 (b) The committee shall:

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

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

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

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

82 (B) the legislative appropriations subcommittees that, in accordance with Section

83 63J-1-410, approve the internal service fund agency's rates, fees, and budget; and

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

86 general sessions of the Legislature.

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

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

90 **63A-3-103. Duties of director of division -- Application to institutions of higher**  
91 **education.**

92 (1) The director of the Division of Finance shall:

93 (a) define fiscal procedures relating to approval and allocation of funds;

94 (b) provide for the accounting control of funds;

95 (c) approve proposed expenditures for the purchase of supplies and services;

96 (d) promulgate rules that:

97 (i) establish procedures for maintaining detailed records of all types of leases;

98 (ii) account for all types of leases in accordance with generally accepted accounting  
99 principles;

100 (iii) require the performance of a lease with an option to purchase study by state  
101 agencies prior to any lease with an option to purchase acquisition of capital equipment; and

102 (iv) require that the completed lease with an option to purchase study be approved by  
103 the director of the Division of Finance; [~~and~~]

104 (e) if the department operates the Division of Finance as an internal service fund  
105 agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in  
106 Section 63A-1-114:

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

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

109 [~~(f)~~] (f) prescribe other fiscal functions required by law or under the constitutional  
110 authority of the governor to transact all executive business for the state.

111 (2) (a) Institutions of higher education are subject to the provisions of Title 63A,  
112 Chapter 3, Part 1, General Provisions, and Part 2, Accounting System, only to the extent  
113 expressly authorized or required by the State Board of Regents under Title 53B, State System

114 of Higher Education.

115 (b) Institutions of higher education shall submit financial data for the past fiscal year  
116 conforming to generally accepted accounting principles to the director of the Division of  
117 Finance.

118 (3) The Division of Finance shall prepare financial statements and other reports in  
119 accordance with legal requirements and generally accepted accounting principles for the state  
120 auditor's examination and certification:

121 (a) not later than 60 days after a request from the state auditor; and

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

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

124 **63A-11-104. Office director -- Appointment -- Duties -- Staff.**

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

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

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

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

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

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

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

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

137 (3) The director shall:

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

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

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

142 63A-1-114:

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

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

145 (4) The director may employ staff.

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

147 **63A-12-101. Division of Archives and Records Service created -- Duties.**

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

150 (2) The state archives shall:

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

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

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

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

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

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

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

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

170 Government Records Access and Management Act;

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

172 (j) administer and maintain the Utah Public Notice Website established under Section

173 63F-1-701;

174 (k) provide assistance to any governmental entity in administering this chapter and

175 Title 63G, Chapter 2, Government Records Access and Management Act; [~~and~~]

176 (l) prepare forms for use by all governmental entities for a person requesting access to

177 a record[-]; and

178 (m) if the department operates the Division of Archives and Records Service as an

179 internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate

180 Committee established in Section 63A-1-114:

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

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

183 (3) The state archives may:

184 (a) establish a report and directives management program; and

185 (b) establish a forms management program.

186 (4) The executive director of the Department of Administrative Services may direct

187 the state archives to administer other functions or services consistent with this chapter and

188 Title 63G, Chapter 2, Government Records Access and Management Act.

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

190 **63G-3-402. Division of Administrative Rules -- Duties generally.**

191 (1) The Division of Administrative Rules shall:

192 (a) establish all filing, publication, and hearing procedures necessary to make rules

193 under this chapter;

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

195 of effective dates;

196 (c) make the register, copies of all proposed rules, and rulemaking documents

197 available for public inspection;

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

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

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

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

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

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

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

214 (k) distribute, at prices covering publication costs, all paper rulemaking publications  
215 to all other requesting persons and agencies;

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

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

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

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

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

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



- 226 (a) implementing a uniform system of formatting, punctuation, capitalization,  
227 organization, numbering, and wording;
- 228 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,  
229 numbering, referencing, and wording;
- 230 (c) changing a catchline to more accurately reflect the substance of each section, part,  
231 rule, or title;
- 232 (d) updating or correcting annotations associated with a section, part, rule, or title; and
- 233 (e) merging or determining priority of any amendment, enactment, or repeal to the  
234 same rule or section made effective by an agency.
- 235 (3) In addition, the division may make the following nonsubstantive changes with the  
236 concurrence of the agency:
- 237 (a) eliminate duplication within rules;
- 238 (b) eliminate obsolete and redundant words; and
- 239 (c) correcting defective or inconsistent section and paragraph structure in arrangement  
240 of the subject matter of rules.
- 241 (4) For nonsubstantive changes made in accordance with Subsection (2) or (3) after  
242 publication of the rule in the bulletin, the division shall publish a list of nonsubstantive  
243 changes in the bulletin. For each nonsubstantive change, the list shall include:
- 244 (a) the affected code citation;
- 245 (b) a brief description of the change; and
- 246 (c) the date the change was made.
- 247 (5) All funds appropriated or collected for publishing the division's publications shall  
248 be nonlapsing.