

**ROADS ON PUBLIC LANDS**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Leonard M. Blackham**

AN ACT RELATING TO TRANSPORTATION; PROVIDING FOR JOINT TITLE TO CERTAIN HIGHWAY RIGHTS-OF-WAY BY THE STATE AND LOCAL GOVERNMENTS; PROVIDING FOR CERTAIN RIGHT-OF-WAY WIDTHS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**72-3-102**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-3-103**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-3-104**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-3-105**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-5-103**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-5-104**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-5-302**, as renumbered and amended by Chapter 270, Laws of Utah 1998

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

Section 1. Section **72-3-102** is amended to read:

**72-3-102. State highways -- Class A state roads.**

(1) State highways comprise highways, roads, and streets designated under Chapter 4, Designation of State Highways.

(2) State highways are class A state roads.

(3) The state has title to all rights-of-way for all state highways.

~~(3)~~ (4) The department has jurisdiction and control over all state highways.

~~(4)~~ (5) The department shall construct and maintain each state highway using funds made available for that purpose.

28 Section 2. Section **72-3-103** is amended to read:

29 **72-3-103. County roads -- Class B roads -- Construction and maintenance by**  
30 **counties.**

31 (1) County roads comprise all public highways, roads, and streets within the state that:

32 (a) are situated outside of incorporated municipalities and not designated as state highways;

33 (b) have been designated as county roads; or

34 (c) are located on property under the control of a federal agency and constructed or  
35 maintained by the county under agreement with the appropriate federal agency.

36 (2) County roads are class B roads.

37 (3) The state and county have joint undivided interest in the title to all rights-of-way for  
38 all county roads.

39 [~~(3)~~] (4) The county governing body has jurisdiction and control of county roads within the  
40 county.

41 [~~(4)~~] (5) The county shall construct and maintain each county road using funds made  
42 available for that purpose.

43 [~~(5)~~] (6) The county legislative body may expend funds allocated to each county from the  
44 Transportation Fund under rules made by the department.

45 [~~(6)~~] (7) A county legislative body may use any portion of the class B road funds provided  
46 by this chapter for the construction and maintenance of class A state roads by cooperative  
47 agreement with the department.

48 [~~(7)~~] (8) A county may enter into agreements with the appropriate federal agency for the  
49 use of federal funds, county road funds, and donations to county road funds to construct, improve,  
50 or maintain county roads within or partly within national forests.

51 Section 3. Section **72-3-104** is amended to read:

52 **72-3-104. City streets -- Class C roads -- Construction and maintenance.**

53 (1) City streets comprise:

54 (a) highways, roads, and streets within the corporate limits of the municipalities that are  
55 not designated as class A state roads or as class B roads; and

56 (b) those highways, roads, and streets located within a national forest and constructed or  
57 maintained by the municipality under agreement with the appropriate federal agency.

58 (2) City streets are class C roads.

59           (3) Except for city streets within counties of the first and second class as defined in Section  
60 17-16-13, the state and city have joint undivided interest in the title to all rights-of-way for all city  
61 streets.

62           ~~[(3)]~~ (4) The municipal governing body has jurisdiction and control of the city streets  
63 within the municipality.

64           ~~[(4)]~~ (5) The department shall cooperate with the municipal legislative body in the  
65 construction and maintenance of the class C roads within each municipality.

66           ~~[(5)]~~ (6) The municipal legislative body shall expend or cause to be expended upon the  
67 class C roads the funds allocated to each municipality from the Transportation Fund under rules  
68 made by the department.

69           ~~[(6)]~~ (7) Any town or city in the third class may:

70           (a) contract with the county or the department for the construction and maintenance of  
71 class C roads within its corporate limits; or

72           (b) transfer, with the consent of the county, its:

73           (i) class C roads to the class B road system; and

74           (ii) funds allocated from the Transportation Fund to the municipality to the county  
75 legislative body for use upon the transferred class C roads.

76           ~~[(7)]~~ (8) A municipal legislative body of any municipality of the third class may use any  
77 portion of the class C road funds allocated to the municipality for the construction of sidewalks,  
78 curbs, and gutters on class A state roads within the municipal limits by cooperative agreement with  
79 the department.

80           Section 4. Section **72-3-105** is amended to read:

81           **72-3-105. Maps to be prepared by county -- Indication of roads.**

82           (1) As used in this section, "class D road" means any road, way, or other land surface route  
83 that has been or is established by use or constructed and is maintained to provide reasonably  
84 passable for usage by the public for vehicles with four or more wheels that is not a class A, class  
85 B, or class C road under this title.

86           (2) Each class D road is part of the highway and road system within the state with the same  
87 force and effect as if the class D road had been included within this system upon its being first  
88 established or constructed.

89           (3) Each county shall prepare maps showing to the best of its ability the class D roads

90 within its boundaries which were in existence as of October 21, 1976. Preparation of these maps  
91 may be done by the county itself or through any multi-county planning district in which the county  
92 participates. A county shall be given a minimum of two years to complete mapping of the class D  
93 roads within its boundaries.

94 (4) Any class D road which is established or constructed after October 21, 1976, shall be  
95 reflected on maps prepared as provided in Subsection (3).

96 (5) The county shall provide a copy of any map under Subsection (3) or (4) upon  
97 completion to the department.

98 (6) The department shall scribe each road shown on its own county map series. The  
99 department is not responsible for the validity of any class D road and is not responsible for its  
100 being inventoried. The department shall also keep on file an historical map record of the roads as  
101 provided by the counties.

102 (7) The state and county have joint undivided interest in the title to all rights-of-way for  
103 class D roads.

104 Section 5. Section **72-5-103** is amended to read:

105 **72-5-103. Acquisition of rights-of-way and other real property -- Title to property**  
106 **acquired.**

107 (1) The department may acquire any real property or interests in real property necessary  
108 for temporary, present, or reasonable future state highway purposes by gift, agreement, exchange,  
109 purchase, condemnation, or otherwise.

110 (2) (a) Title to real property acquired by the department or the counties, cities, and towns  
111 by gift, agreement, exchange, purchase, condemnation, or otherwise for highway rights-of-way or  
112 other highway purposes may be in fee simple or any lesser estate or interest.

113 (b) If the highway is a county road, city street, or right-of-way described in Title 72,  
114 Chapter 5, Part 3, Rights-of-way Across Federal Lands Act, title to all interests in real property less  
115 than fee simple held under this section is held jointly by the state and the county, city, or town  
116 holding the interest.

117 (3) A transfer of land bounded by a highway on a right-of-way for which the public has  
118 only an easement passes the title of the person whose estate is transferred to the middle of the  
119 highway.

120 Section 6. Section **72-5-104** is amended to read:

121 **72-5-104. Public use constituting dedication -- Scope.**

122 (1) A highway ~~[shall be deemed to have been]~~ is dedicated and abandoned to the use of  
123 the public when it has been continuously used as a public thoroughfare for a period of ten years.

124 (2) The dedication and abandonment creates a right-of-way held by the state in accordance  
125 with Sections 72-3-102, 72-3-103, 72-3-104, 72-3-105, and 72-5-103.

126 (3) The scope of the right-of-way is that which is reasonable and necessary to ensure safe  
127 travel according to the facts and circumstances at the time of dedication or abandonment.

128 Section 7. Section **72-5-302** is amended to read:

129 **72-5-302. Rights-of-way across federal lands -- Title -- Presumption -- Scope.**

130 (1) This part applies to all R.S. 2477 rights-of-way.

131 (2) The state and its political subdivisions have title to the R.S. 2477 rights-of-ways in  
132 accordance with Sections 72-3-102, 72-3-103, 72-3-104, 72-3-105, and 72-5-103.

133 (3) (a) Acceptance of a right-of-way for the construction of a highway over public lands,  
134 not reserved for public uses, is presumed if the state or a political subdivision of the state makes  
135 a finding that the highway was constructed and the right-of-way was accepted prior to October 21,  
136 1976.

137 (b) The existence of a highway establishes a presumption that the highway has continued  
138 in use in its present location since the land over which it is built was public land not reserved for  
139 public use.

140 (4) (a) ~~[Unless specifically determined by the state or a political subdivision of the state~~  
141 ~~with authority over the R.S. 2477 right-of-way, the]~~ The scope of the R.S. 2477 right-of-way is that  
142 which is reasonable and necessary to ensure safe travel ~~[for all uses that occurred before October~~  
143 ~~21, 1976]~~ according to the facts and circumstances at the time of acceptance.

144 (b) The scope of the R.S. 2477 right-of-way includes the right to widen the highway as  
145 necessary to accommodate the increased travel associated with those uses, up to, where applicable,  
146 improving a highway to two lanes so travelers can safely pass each other.

147 ~~[(c) The width of an R.S. 2477 right-of-way used for vehicular travel may not be less than~~  
148 ~~the setback standards for wilderness boundaries along existing roads as described in Bureau of~~  
149 ~~Land Management Manual H-8560-1, Management of Designated Wilderness Areas, dated July~~  
150 ~~27, 1988, as follows:]~~

151 ~~[(i) high standard paved highways shall be 300 feet from the centerline;]~~

152           ~~[(ii) high standard logging roads shall be 100 feet from the centerline; and]~~  
153           ~~[(iii) low standard logging, jeep, maintenance, dirt roads used for right-of-way, or similar~~  
154 ~~roads shall be 30 feet from the centerline.]~~  
155           ~~[(5) The safety standards established by the Department of Transportation in accordance~~  
156 ~~with Section 72-6-102 apply to all determinations of safety on R.S. 2477 rights-of-way used for~~  
157 ~~vehicular travel.]~~

158           Section 8. **Effective date.**

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

---

---

**Legislative Review Note**  
**as of 2-18-00 10:45 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**