

1 STATE SETTLEMENT AGREEMENTS

2 AMENDMENTS

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 Sponsor: Peter C. Knudson

6 This act modifies the Utah Code by changing the requirements for settlement agreements
7 involving the Utah Department of Transportation.

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

9 AMENDS:

10 63-38b-104, as last amended by Chapter 346, Laws of Utah 1998

11 72-1-303, as last amended by Chapter 72, Laws of Utah 1999

12 ENACTS:

13 63-38b-105, Utah Code Annotated 1953

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

15 Section 1. Section 63-38b-104 is amended to read:

16 63-38b-104. Legislative review and approval of settlement agreements.

17 (1) (a) [~~Except as provided in Subsection (1)(c) and before~~] Before legally binding the state
18 by executing a settlement agreement that might cost government entities more than \$500,000 to
19 implement, an agency shall:

20 (i) submit the proposed settlement agreement to the governor for his approval or rejection
21 as required by Section 63-38b-103; and

22 (ii) if the governor approves the settlement agreement, submit the settlement agreement
23 to the Legislative Management Committee for its review and recommendations.

24 (b) The Legislative Management Committee shall review the settlement agreement and
25 may:

26 (i) recommend that the agency execute the settlement agreement;

27 (ii) recommend that the agency reject the settlement agreement; or



28 (iii) recommend to the governor that he call a special session of the Legislature to review
29 and approve or reject the settlement agreement.

30 ~~[(c) The Department of Transportation need not submit settlement agreements resolving~~
31 ~~condemnation cases to the Legislative Management Committee, unless the difference between the~~
32 ~~Department of Transportation's original appraisal on the property and the amount of the settlement~~
33 ~~is greater than \$500,000.]~~

34 (2) (a) ~~[Except as provided in Subsection (2)(d) and before]~~ Before legally binding the state
35 by executing a settlement agreement that might cost government entities more than \$1,000,000 to
36 implement, an agency shall:

37 (i) submit the proposed settlement agreement to the governor for his approval or rejection
38 as required by Section 63-38b-103; and

39 (ii) if the governor approves the settlement agreement, submit the settlement agreement
40 to the Legislature for its approval in an annual general session or a special session.

41 (b) (i) If the Legislature approves the settlement agreement, the agency may execute the
42 agreement.

43 (ii) If the Legislature rejects the settlement agreement, the agency may not execute the
44 agreement.

45 (c) If an agency executes a settlement agreement without obtaining the Legislature's
46 approval under this Subsection (2):

47 (i) the governor may issue an executive order declaring the settlement agreement void; or

48 (ii) the Legislature may pass a joint resolution declaring the settlement agreement void.

49 ~~[(d) The Department of Transportation need not submit settlement agreements resolving~~
50 ~~condemnation cases to the Legislature, unless the difference between the Department of~~
51 ~~Transportation's original appraisal on the property and the amount of the settlement is greater than~~
52 ~~\$1,000,000.]~~

53 Section 2. Section **63-38b-105** is enacted to read:

54 **63-38b-105. Condemnation settlements involving the Department of Transportation.**

55 (1) Notwithstanding the provisions of this chapter, the Department of Transportation need
56 not obtain the approval of the governor or the Legislature in settlement agreements resolving
57 condemnation cases.

58 (2) Settlement agreements involving condemnation cases for \$1,000,000 to \$2,000,000

59 over the Department of Transportation's original appraisal shall be presented to the Transportation
 60 Commission for approval or rejection.

61 (3) (a) Settlement agreements involving condemnation cases for more than \$2,000,000
 62 over the Department of Transportation's original appraisal shall be presented:

63 (i) to the Transportation Commission for approval or rejection; and

64 (ii) if the settlement is approved by the Transportation Commission, to the Legislative
 65 Management Committee.

66 (b) The Legislative Management Committee may recommend approval or rejection of the
 67 agreement.

68 **§ [(4) The Department of Transportation may not enter into a settlement agreement that**
 69 **resolves a condemnation case until:**

70 **—— (a) the Transportation Commission has approved the agreement; and**

71 **—— (b) the Legislative Management Committee has reviewed the agreement.]**

71a **(4)(a) THE DEPARTMENT OF TRANSPORTATION MAY NOT ENTER INTO A SETTLEMENT**
 71b **AGREEMENT THAT RESOLVES A CONDEMNATION CASE AND REQUIRES PAYMENT OF \$1,000,000**
 71c **TO \$2,000,000 OVER THE DEPARTMENT OF TRANSPORTATION'S ORIGINAL APPRAISAL UNTIL THE**
 71d **TRANSPORTATION COMMISSION HAS APPROVED THE AGREEMENT.**

71e **(b) THE DEPARTMENT OF TRANSPORTATION MAY NOT ENTER INTO A SETTLEMENT**
 71f **AGREEMENT THAT RESOLVES A CONDEMNATION CASE AND REQUIRES PAYMENT OF MORE THAN**
 71g **\$2,000,000 OVER THE DEPARTMENT OF TRANSPORTATION'S ORIGINAL APPRAISAL UNTIL:**

71h **(i) THE TRANSPORTATION COMMISSION HAS APPROVED THE AGREEMENT; AND**

71i **(ii) THE LEGISLATIVE MANAGEMENT COMMITTEE HAS REVIEWED AND APPROVED THE**
 71j **AGREEMENT. §**

72 Section 3. Section 72-1-303 is amended to read:

73 **72-1-303. Duties of commission.**

74 The commission has the following duties:

75 (1) determining priorities and funding levels of projects in the state transportation systems
 76 for each fiscal year based on project lists compiled by the department;

77 (2) determining additions and deletions to state highways under Chapter 4, Designation
 78 of State Highways;

79 (3) holding public hearings and otherwise providing for public input in transportation
 80 matters;

81 (4) making policies and rules in accordance with Title 63, Chapter 46a, Utah
 82 Administrative Rulemaking Act, necessary to perform the commission's duties described under
 83 this section;

84 (5) in accordance with Section 63-46b-12, reviewing orders issued by the executive
 85 director in adjudicative proceedings held in accordance with Title 63, Chapter 46b, Administrative

- 86 Procedures Act; [~~and~~]
87 (6) advising the department in state transportation systems policy[-]; and
88 (7) approving settlement agreements of condemnation cases subject to Section 63-38b-105.

Legislative Review Note

as of 1-12-01 10:39 AM

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

Office of Legislative Research and General Counsel