

STATE SETTLEMENT AGREEMENTS**AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Peter C. Knudson

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

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

AMENDS:

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

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

ENACTS:

63-38b-105, Utah Code Annotated 1953

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the Transportation Commission has approved the agreement; and

(b) the Legislative Management Committee has reviewed the agreement.

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

72-1-303. Duties of commission.

The commission has the following duties:

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

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

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

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

(5) in accordance with Section 63-46b-12, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63, Chapter 46b, Administrative Procedures Act; [and]

(6) advising the department in state transportation systems policy[-]; and

(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