

1 **RAIL CORRIDOR PROVISIONS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gregory S. Bell**

5

LONG TITLE

6 **General Description:**

7 This bill modifies municipal and county land use and development provisions related to
8 public transit district construction and improvements in a rail corridor.

9 **Highlighted Provisions:**

10 This bill:

11 ▶ exempts public transit district construction and improvements within a railroad
12 right-of-way from certain county and municipal land use and development
13 provisions; and

14 ▶ prohibits counties and municipalities from regulating or imposing a fee on public
15 transit district operations of a fixed guideway system in a rail corridor.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **10-9-106**, as last amended by Chapter 149, Laws of Utah 1999

23 **17-27-105**, as last amended by Chapter 149, Laws of Utah 1999

24 ENACTS:

25 **10-8-86.5**, Utah Code Annotated 1953

26 **17-50-321**, Utah Code Annotated 1953



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

Section 1. Section **10-8-86.5** is enacted to read:

10-8-86.5. Restrictions relating to a public transit district's rail corridor operations.

(1) As used in this section:

(a) "Public transit district" has the same meaning as defined in Section 10-9-106.

(b) "Rail corridor" has the same meaning as defined in Section 10-9-106.

(2) A municipality may not regulate or impose a fee on a public transit district's operation of a fixed guideway system within a rail corridor.

Section 2. Section **10-9-106** is amended to read:

10-9-106. Property owned by other government units -- Effect of land use and development ordinances.

(1) (a) (i) [~~Each~~] Except as provided in Subsection (1)(b), each county, municipality, school district, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality only in a manner or for a purpose that conforms to that municipality's ordinances.

[~~(b)~~] (ii) In addition to any other remedies provided by law, when a municipality's land use and development ordinances are being violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(b) (i) As used in this Subsection (1)(b):

(A) "Public transit district" means a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act.

(B) "Rail corridor" means a railroad right-of-way historically used for railroad purposes.

(ii) With respect to construction or improvements by a public transit district within a rail corridor, a municipality may not:

(A) impose requirements relating to landscaping, fencing, aesthetic considerations,

59 construction methods or materials, building use, or placement or use of facilities;

60 (B) require compliance with building codes;

61 (C) impose fees or assessments related to the construction or improvements, including
62 development fees, impact fees, or permit fees; or

63 (D) require a building permit, conditional use permit, variance, historic district permit,
64 or other permit.

65 (iii) Subsection (1)(b)(ii) does not apply to public transit district facilities located
66 outside a rail corridor.

67 (2) A school district is subject to a municipality's land use regulations under this
68 chapter, except that a municipality may not:

69 (a) impose requirements for landscaping, fencing, aesthetic considerations,
70 construction methods or materials, building codes, building use for educational purposes, or the
71 placement or use of temporary classroom facilities on school property;

72 (b) require a school district to participate in the cost of any roadway or sidewalk not
73 reasonably necessary for the safety of school children and not located on or contiguous to
74 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
75 school site to an existing roadway;

76 (c) require a district to pay fees not authorized by this section;

77 (d) provide for inspection of school construction or assess a fee or other charges for
78 inspection, unless the school district is unable to provide for inspection by an inspector, other
79 than the project architect or contractor, who is qualified under criteria established by the state
80 superintendent;

81 (e) require a school district to pay any impact fee for an improvement project that is
82 not reasonably related to the impact of the project upon the need that the improvement is to
83 address; or

84 (f) impose regulations upon the location of a project except as necessary to avoid
85 unreasonable risks to health or safety.

86 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
87 school with the municipality in which the school is to be located, to avoid or mitigate existing
88 and potential traffic hazards to maximize school safety.

89 Section 3. Section **17-27-105** is amended to read:

90 **17-27-105. Property owned by other government units -- Effect of land use and**
91 **development ordinances.**

92 (1) (a) (i) [Each] Except as provided in Subsection (1)(b), each county, municipality,
93 school district, special district, and political subdivision of Utah shall conform to the land use
94 and development ordinances of any county when installing, constructing, operating, or
95 otherwise using any area, land, or building situated within that county only in a manner or for a
96 purpose that conforms to that county's ordinances.

97 ~~(b)~~ (ii) In addition to any other remedies provided by law, when a county's land use
98 and development ordinances are being violated or about to be violated by another political
99 subdivision, that county may institute injunction, mandamus, abatement, or other appropriate
100 action or proceeding to prevent, enjoin, abate, or remove the improper installation,
101 improvement, or use.

102 (b) (i) As used in this Subsection (1)(b):

103 (A) "Public transit district" means a public transit district organized under Title 17A,
104 Chapter 2, Part 10, Utah Public Transit District Act.

105 (B) "Rail corridor" means a railroad right-of-way historically used for railroad
106 purposes.

107 (ii) With respect to construction or improvements by a public transit district within a
108 rail corridor, a county may not:

109 (A) impose requirements relating to landscaping, fencing, aesthetic considerations,
110 construction methods or materials, building use, or placement or use of facilities;

111 (B) require compliance with building codes;

112 (C) impose fees or assessments related to the construction or improvements, including
113 development fees, impact fees, or permit fees; or

114 (D) require a building permit, conditional use permit, variance, historic district permit,
115 or other permit.

116 (iii) Subsection (1)(b)(ii) does not apply to public transit district facilities located
117 outside a rail corridor.

118 (2) A school district is subject to a county's land use regulations under this chapter,
119 except that a county may not:

120 (a) impose requirements for landscaping, fencing, aesthetic considerations,

121 construction methods or materials, building codes, building use for educational purposes, or the
122 placement or use of temporary classroom facilities on school property;

123 (b) require a school district to participate in the cost of any roadway or sidewalk not
124 reasonably necessary for the safety of school children and not located on or contiguous to
125 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
126 school site to an existing roadway;

127 (c) require a district to pay fees not authorized by this section;

128 (d) provide for inspection of school construction or assess a fee or other charges for
129 inspection, unless the school district is unable to provide for inspection by an inspector, other
130 than the project architect or contractor, who is qualified under criteria established by the state
131 superintendent;

132 (e) require a school district to pay any impact fee for an improvement project that is
133 not reasonably related to the impact of the project upon the need that the improvement is to
134 address; or

135 (f) impose regulations upon the location of a project except as necessary to avoid
136 unreasonable risks to health or safety.

137 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
138 school with the county in which the school is to be located, to avoid or mitigate existing and
139 potential traffic hazards to maximize school safety.

140 Section 4. Section **17-50-321** is enacted to read:

141 **17-50-321. Restrictions relating to a public transit district's rail corridor**
142 **operations.**

143 (1) As used in this section:

144 (a) "Public transit district" has the same meaning as defined in Section 17-27-105.

145 (b) "Rail corridor" has the same meaning as defined in Section 17-27-105.

146 (2) A county may not regulate or impose a fee on a public transit district's operation of
147 a fixed guideway system within a rail corridor.

Legislative Review Note
as of 11-19-03 3:26 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-09-03 9:05 AM

The Political Subdivisions Interim Committee recommended this bill.