

Senator John L. Valentine proposes the following substitute bill:

UTAH SCENIC BYWAY DESIGNATION

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Designation of State Highways Act by amending scenic byway designation provisions.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ changes the membership of the Utah State Scenic Byway Committee;
- ▶ provides that the governor shall appoint certain members to the Utah State Scenic Byway Committee;
- ▶ provides that the term of office for Utah State Scenic Byway Committee members is four years, except that the governor shall stagger certain terms;
- ▶ provides that the Legislature shall approve highway and state scenic byway nominations for National Scenic Byway or All-American Road designation;
- ▶ provides that a highway located within a county, city, or town within this state may not be included as part of a designation or nomination as a state scenic byway, national scenic byway, or All-American Road unless the nomination or designation is sanctioned in writing by an official action of the legislative body of each county,



26 city, or town in which the highway passes;

27 ▶ provides that if a county does not give approval, then the portion of the highway
28 located within the boundaries of the county, city, or town may not be included as
29 part of any state scenic byway designation or nomination as a National Scenic
30 Byway or All-American Road;

31 ▶ establishes a procedure for segmenting a scenic byway;

32 ▶ exempts Legacy Parkway from:

33 • the legislative approval requirement for nomination as a National Scenic Byway
34 or All-American Road; and

35 • segmentation;

36 ▶ exempts a highway nominated for National Scenic Byway or All-American Road
37 designation prior to January 1, 2009 from the legislative approval requirement; and

38 ▶ makes technical changes.

39 **Monies Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **72-4-301**, as enacted by Laws of Utah 2004, Chapter 172

46 **72-4-302**, as last amended by Laws of Utah 2005, Chapter 148

47 **72-4-303**, as last amended by Laws of Utah 2008, Chapter 382

48 ENACTS:

49 **72-4-301.5**, Utah Code Annotated 1953

50 **72-4-304**, Utah Code Annotated 1953



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

53 Section 1. Section **72-4-301** is amended to read:

54 **72-4-301. Definitions.**

55 As used in this part[; "~~committee~~"]:

56 (1) "Committee" means the Utah State Scenic Byway Committee created in Section

57 72-4-302.

58 (2) "Non-scenic area" means:

59 (a) any property that is unzoned or zoned for commercial or industrial use adjoining a
60 highway that does not contain at least one of the intrinsic qualities described in Subsection
61 72-4-303(1)(b) immediately upon the property; or

62 (b) any property that is unzoned or zoned for commercial or industrial use that contains
63 an intrinsic quality described in Subsection 72-4-303(1)(b) immediately upon the property but
64 the intrinsic quality does not represent the primary use of the property.

65 (3) "Segmentation" means:

66 (a) removing the scenic byway designation from a portion of an existing scenic byway
67 that adjoins a non-scenic area; or

68 (b) excluding a portion of a highway from a scenic byway designation where the
69 highway adjoins a non-scenic area.

70 Section 2. Section 72-4-301.5 is enacted to read:

71 **72-4-301.5. Designation of highways as scenic byways.**

72 Except as provided in Section 72-4-304, a highway or state scenic byway may not be
73 nominated for designation as a National Scenic Byway or All-American Road unless the
74 nomination is approved by the Legislature.

75 Section 3. Section 72-4-302 is amended to read:

76 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**
77 **Meetings -- Expenses.**

78 (1) There is created the Utah State Scenic Byway Committee.

79 (2) (a) The committee shall consist of the following ~~14~~ 15 members:

80 ~~(a)~~ (i) a representative from each of the following entities appointed by ~~each~~
81 ~~respective entity~~ the governor:

82 ~~(i)~~ (A) the Governor's Office of Economic Development;

83 ~~(ii)~~ (B) the Utah Department of Transportation;

84 ~~(iii) the Utah Association of Governments;~~

85 (C) the Department of Community and Culture;

86 ~~(iv)~~ (D) the Division of State Parks and Recreation;

87 ~~(v)~~ (E) the Federal Highway Administration;

88 ~~[(vi)] (F) the National Park Service;~~
89 ~~[(vii)] (G) the National Forest Service; and~~
90 ~~[(viii)] (H) the Bureau of Land Management; [and]~~
91 ~~[(ix) the Utah Travel Regions Association;]~~
92 ~~[(b) two local government tourism representatives selected by the state entities~~
93 ~~identified in Subsection (2)(a); and]~~
93a **§→ (ii) one local government tourism representative appointed by the governor; ←§**
94 ~~[(c)] §→ [(ii)] (iii) ←§ a representative from the [private sector selected by the state entities~~
94a ~~identified~~
95 ~~in Subsection (2)(a);] private business sector appointed by the governor;~~
96 **§→ [(iii)] (iv) ←§** three local elected officials from a county, city, or town within the state
96a appointed
97 by the governor;
98 **§→ [(iv)] (v) ←§** a member from the House of Representatives appointed by the speaker of the
99 House of Representatives; and
100 **§→ [(v)] (vi) ←§** a member from the Senate appointed by the president of the Senate.
101 (b) Except as provided in Subsection (2)(c), the members appointed in this Subsection
102 (2) shall be appointed for a four-year term of office.
103 (c) The governor shall, at the time of appointment or reappointment for appointments
104 made under Subsection (2)(a)(i), (ii), §→ [or (iii)] (iii), or (iv) ←§ adjust the length of terms to
104a ensure that the terms
105 of committee members are staggered so that approximately half of the committee is appointed
106 every two years.
107 (d) (i) The appointments made under Subsection (2)(a) §→ [(iv)] (v) ←§ and (2)(a)
107a §→ [(v)] (vi) ←§ by the speaker
108 of the House and the president of the Senate may not be from the same political party.
109 (ii) The speaker of the House and the president of the Senate shall alternate the
110 appointments made under Subsections (2)(a) §→ [(iv)] (v) ←§ and (2)(a) §→ [(v)] (vi) ←§ as
110a follows:
111 (A) if the speaker appoints a member under (2)(a) §→ [(iv)] (v) ←§ , the next appointment
111a made by
112 the speaker following the expiration of the existing member's four-year term of office shall be
113 from a different political party; and
114 (B) if the president appoints a member under (2)(a) §→ [(v)] (vi) ←§ , the next
114a appointment made by
115 the president following the expiration of the existing member's four-year term of office shall be
116 from a different political party.
117 (3) (a) The representative from the Governor's Office of Economic Development shall
118 chair the committee.

119 (b) The members appointed under Subsections (2)(a)[~~(v), (vi), (vii), and (viii)~~](i) ~~§~~ → ~~(D)~~

119a ~~(E)~~ ← ~~§~~

120 through (H) serve as nonvoting, ex officio members of the committee.

121 (4) The Governor's Office of Economic Development and the department shall provide
122 staff support to the committee.

123 (5) (a) The chair may call a meeting of the committee only with the concurrence of the
124 department.

125 (b) A majority of the voting members of the committee constitute a quorum.

126 (c) Action by a majority vote of a quorum of the committee constitutes action by the
127 committee.

128 (6) (a) (i) Members who are not state government employees shall receive no
129 compensation or benefits for their services, but may receive per diem and expenses incurred in
130 the performance of the member's official duties at the rates established by the Division of
131 Finance under Sections 63A-3-106 and 63A-3-107.

132 (ii) Members may decline to receive per diem and expenses for their service.

133 (b) (i) State government officer and employee members who do not receive salary, per
134 diem, or expenses from their agency for their service may receive per diem and expenses
135 incurred in the performance of their official duties at the rates established by the Division of
136 Finance under Sections 63A-3-106 and 63A-3-107.

137 (ii) State government officer and employee members may decline to receive per diem
138 and expenses for their service.

139 (c) (i) Local government members who do not receive salary, per diem, or expenses
140 from the entity that they represent for their service may receive per diem and expenses incurred
141 in the performance of their official duties at the rates established by the Division of Finance
142 under Sections 63A-3-106 and 63A-3-107.

143 (ii) Local government members may decline to receive per diem and expenses for their
144 service.

145 (d) Legislators on the committee receive compensation and expenses as provided by
146 law and legislative rule.

147 Section 4. Section **72-4-303** is amended to read:

148 **72-4-303. Powers and duties of the Utah State Scenic Byway Committee --**
149 **Rulemaking authority -- Designation on state maps -- Outdoor advertising.**

- 150 (1) The committee shall have the responsibility to:
- 151 (a) administer a coordinated scenic byway program within the state that:
- 152 (i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique
- 153 to scenic byways;
- 154 (ii) enhances recreation; and
- 155 (iii) promotes economic development through tourism and education;
- 156 (b) ensure that a highway nominated for a scenic byway designation possesses at least
- 157 one of the following six intrinsic qualities:
- 158 (i) scenic quality;
- 159 (ii) natural quality;
- 160 (iii) historic quality;
- 161 (iv) cultural quality;
- 162 (v) archaeological quality; or
- 163 (vi) recreational quality;
- 164 (c) designate highways as state scenic byways from nominated highways within the
- 165 state if the committee determines that the highway possesses the criteria for a state scenic
- 166 byway; and
- 167 (d) remove the designation of a highway as a scenic byway if the committee determines
- 168 that the highway no longer meets the criteria under which it was designated.
- 169 (2) (a) A highway located within a county, city, or town within this state may not be
- 170 included as part of a designation or nomination as a state scenic byway, National Scenic
- 171 Byway, or All-American Road unless the nomination or designation is sanctioned in writing by
- 172 an official action of the legislative body of each county, city, or town through which the
- 173 proposed state scenic byway, National Scenic Byway, or All-American Road passes.
- 174 (b) If a county, city, or town does not give approval as required under Subsection
- 175 (2)(a), then the portion of the highway located within the boundaries of the county, city, or
- 176 town may not be included as part of any state scenic byway designation or nomination as a
- 177 National Scenic Byway or All-American Road.
- 178 (3) (a) A state scenic byway, National Scenic Byway, or All-American Road may be
- 179 segmented by the legislative body of the county, city, or town where the segmentation is to
- 180 occur if:

181 (i) a person or another entity ~~§~~→ , **with the consent of any landowners affected by the**
 181a **segmentation, ←§** has requested the segmentation of a portion of a road or
 182 highway; and

183 (ii) the legislative body of the county, city, or town reviews the segmentation proposed
 184 under Subsection (3)(a)(i).

185 (b) The legislative body of a county, city, or town shall render a decision on a
 186 segmentation request under Subsection (3)(a) within 60 days and may grant segmentation to the
 187 person or entity if the property is a non-scenic area.

188 (c) (i) If the legislative body of a county, city, or town denies the request to segment the
 189 state scenic byway, National Scenic Byway, or All-American Road under Subsection (3)(a)
 190 upon the request of a person or another entity ~~§~~→ , **with the consent of any landowners affected**
 190a **by the segmentation ←§** , that person or entity may appeal the denial of the
 191 request to the committee.

192 (ii) The committee shall hear and answer an appeal of the denial of a segmentation
 193 request within 60 days of a request submitted in accordance with Subsection (3)(c)(i).

194 (iii) If the committee does not render a decision on an appeal in accordance with
 195 Subsection (3)(c)(ii), the segmentation request shall be granted if the property is a non-scenic
 196 area.

197 [~~2~~] (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 198 Act, the department shall make rules in consultation with the committee:

199 (a) for the administration of a scenic byway program;

200 (b) establishing the criteria that a highway shall possess to be designated as a scenic
 201 byway, including the criteria described in Subsection (1)(b);

202 (c) establishing the process for nominating a highway to be designated as a state scenic
 203 byway;

204 (d) specifying the process for hearings to be conducted in the area of proposed
 205 designation prior to the highway being designated as a scenic byway;

206 (e) identifying the highways within the state designated as scenic byways; and

207 (f) establishing the process and criteria for removing the designation of a highway as a
 208 scenic byway.

209 [~~3~~] (5) The department shall designate scenic byway routes on future state highway
 210 maps.

211 [~~4~~] (6) A highway within the state designated as a scenic byway is subject to federal

212 outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

213 Section 5. Section **72-4-304** is enacted to read:

214 **72-4-304. Exceptions to approval and segmentation requirements.**

215 (1) Legacy Parkway, from the junction of I-215 in Davis County northerly to the
216 Junction with US 89 and I-15:

217 (a) is exempt from the legislative approval requirement in Section 72-4-301.5; and

218 (b) may not be segmented.

219 (2) A highway nominated for National Scenic Byway or All-American Road

220 designation prior to January 1, 2009 is exempt from the legislative approval requirement in

221 Section 72-4-301.5.

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Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will cost \$6,400 from the General Fund to pay legislative salary and per diem costs.

| | <u>2009</u> <u>Approp.</u> | <u>2010</u> <u>Approp.</u> | <u>2011</u> <u>Approp.</u> | <u>2009</u> <u>Revenue</u> | <u>2010</u> <u>Revenue</u> | <u>2011</u> <u>Revenue</u> |
|--------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| General Fund | \$0 | \$6,400 | \$6,400 | \$0 | \$0 | \$0 |
| Total | \$0 | \$6,400 | \$6,400 | \$0 | \$0 | \$0 |

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

