

TRANSPORTATION GOVERNANCE

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill modifies the Transportation Code by amending provisions relating to transportation governance.

Highlighted Provisions:

This bill:

- ▶ provides that Transportation Commissioners shall be selected on a nonpartisan basis;
- ▶ provides that for Transportation Commission appointments made on or after July 1, 2009, the selection of commissioners shall be:
 - four commissioners with one of the commissioners selected from each of the regions established by the Department of Transportation; and
 - three commissioners selected from the state at large;
- ▶ provides that the Transportation Commission shall annually report to a committee designated by the Legislative Management Committee a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects and the unfunded highway construction and maintenance needs within the state;
- ▶ provides that the committee designated by the Legislative Management Committee shall review the list reported by the Transportation Commission and make a recommendation to the Legislature on the amount of additional funding to allocate



28 transportation ~~H→~~ [;] **and** ~~←H~~ the source of revenue for the additional funding allocation ~~H→~~ [;

28a **and the number of**

29 **projects to fund on the prioritized list] ←H** ;

30 ▶ provides that the Department of Transportation may not delay a new transportation

31 capacity project that was funded by the Legislature in an appropriations act ~~H→~~ **to a different fiscal**

31a **year than programmed by the Transportation Commission ←H** due to

32 an unavoidable shortfall in revenues unless the project delays are prioritized and

33 approved by the Transportation Commission;

34 ▶ provides that the Transportation Commission shall prioritize and approve any new

35 transportation capacity project delays for projects that were funded by the

36 Legislature in an appropriations act due to an unavoidable shortfall in revenues;

37 ▶ provides that the Department of Transportation may not delay a Critical Highway

38 Needs Fund project that was funded by the Legislature in an appropriations act ~~H→~~ **to a different**

38a **fiscal year than programmed by the Transportation Commission ←H** or

39 that general obligation proceeds have been issued for in the current fiscal year due

40 to an unavoidable shortfall in revenues unless the project delays are prioritized and

41 approved by the Transportation Commission;

42 ▶ provides that the Transportation Commission shall prioritize and approve any

43 Critical Highway Needs Fund project delays ~~H→~~ **to a different fiscal year than programmed by**

43a **the Transportation Commission ←H** due to an unavoidable shortfall in

44 revenues for a project:

45 • that was funded by the Legislature in an appropriations act; or

46 • that general obligation bond proceeds were issued for in the current fiscal year;

47 and

48 ▶ makes technical changes.

49 **Monies Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 None

53 **Utah Code Sections Affected:**

54 **AMENDS:**

55 **72-1-301**, as last amended by Laws of Utah 2002, Chapter 176

56 **72-1-303**, as last amended by Laws of Utah 2008, Chapters 39 and 382

57 **72-1-305**, as enacted by Laws of Utah 2005, Chapter 245

58 **72-2-125**, as last amended by Laws of Utah 2008, Chapters 124, 384, and 389

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89

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

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

**72-1-301. Transportation Commission created -- Members, appointment, terms --
Qualifications -- Pay and expenses -- Chair -- Quorum -- Surety bond.**

(1) (a) There is created the Transportation Commission which shall consist of seven members.

(b) The members of the commission shall be residents of Utah.

~~[(c) No more than four of the commissioners shall be members of any one political party.]~~

(c) The members of the commission shall be selected on a nonpartisan basis.

(d) (i) The commissioners shall be appointed by the governor, with the consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided under Subsection (1)(d)(ii).

(ii) The first two additional commissioners serving on the seven member commission shall be appointed for terms of two years nine months and four years nine months, respectively, initially commencing on July 1, 1996, and subsequently commencing as specified under Subsection (1)(d)(i).

(e) The commissioners serve on a part-time basis.

(f) Each commissioner shall remain in office until a successor is appointed and qualified.

(2) ~~[(The)~~ (a) Except as provided in Subsection (2)(b), the selection of the commissioners shall be as follows:

~~[(a)]~~ (i) one commissioner from Box Elder, Cache, or Rich county;

~~[(b)]~~ (ii) one commissioner from Salt Lake or Tooele county;

~~[(c)]~~ (iii) one commissioner from Carbon, Emery, Grand, or San Juan county;

~~[(d)]~~ (iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Washington, or Wayne county;

~~[(e)]~~ (v) one commissioner from Weber, Davis, or Morgan county;

~~[(f)]~~ (vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or Daggett county; and

90 [~~g~~] (vii) one commissioner selected from the state at large.

91 (b) Beginning with the appointment of commissioners on or after July 1, 2009, the
92 selection of commissioners shall be as follows:

93 (i) four commissioners with one commissioner selected from each of the four regions
94 established by the department; and

95 (ii) three commissioners selected from the state at large.

96 (3) (a) Members appointed before May 2, 1996, shall continue to receive the
97 compensation, per diem, expenses, and benefits they were receiving as of January 1, 1996.

98 (b) Members appointed after May 2, 1996, shall receive no compensation or benefits
99 for their services, but may receive per diem and expenses incurred in the performance of the
100 member's official duties at the rates established by the Division of Finance under Sections
101 63A-3-106 and 63A-3-107.

102 (c) Members may decline to receive compensation, benefits, per diem, and expenses
103 for their service.

104 (4) (a) One member of the commission shall be designated by the governor as chair.

105 (b) The commission shall select one member as vice chair to act in the chair's absence.

106 (5) Any four commissioners constitute a quorum.

107 (6) (a) Each member of the commission shall qualify by:

108 (i) taking the constitutional oath of office; and

109 (ii) giving a surety bond.

110 (b) The Division of Finance of the Department of Administrative Services shall
111 determine the form and amount of the bond, and the state shall pay the bond premium.

112 Section 2. Section **72-1-303** is amended to read:

113 **72-1-303. Duties of commission.**

114 (1) The commission has the following duties:

115 [~~1~~] (a) determining priorities and funding levels of projects in the state transportation
116 systems for each fiscal year based on project lists compiled by the department;

117 [~~2~~] (b) determining additions and deletions to state highways under Chapter 4,
118 Designation of State Highways Act;

119 [~~3~~] (c) holding public hearings and otherwise providing for public input in
120 transportation matters;

121 ~~[(4)]~~ (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
 122 Administrative Rulemaking Act, necessary to perform the commission's duties described under
 123 this section;

124 ~~[(5)]~~ (e) in accordance with Section 63G-4-301, reviewing orders issued by the
 125 executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
 126 Administrative Procedures Act;

127 ~~[(6)]~~ (f) advising the department in state transportation systems policy;

128 ~~[(7)]~~ (g) approving settlement agreements of condemnation cases subject to Section
 129 63G-10-401;

130 ~~[(8)]~~ (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve
 131 as a nonvoting, ex officio member or a voting member on the board of trustees of a public
 132 transit district;

133 ~~[(9)]~~ (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the
 134 short-term and long-range public transit plans; and

135 ~~[(10)]~~ (j) reviewing administrative rules made, amended, or repealed by the
 136 department.

137 (2) (a) ~~H→~~ **[The]** For projects prioritized with funding provided under Section 72-2-124
 137a and 72-2-125, the ←H commission shall annually report to a committee designated by the
 138 Legislative Management Committee:

139 (i) a prioritized list of the new transportation capacity projects in the state
 140 transportation system and the funding levels available for those projects; and

141 (ii) the unfunded highway construction and maintenance needs within the state.

142 (b) The committee designated by the Legislative Management Committee under
 143 Subsection (2)(a) shall:

144 (i) review the list reported by the Transportation Commission; and

145 (ii) make a recommendation to the Legislature on:

146 (A) the amount of additional funding to allocate transportation; H→ and ←H

147 (B) the source of revenue for the additional funding allocation under Subsection

148 (2)(b)(ii)(A) H→ [; and

149 ←H (C) the number of projects to fund on the prioritized list presented under Subsection

150 (2)(a)(i) ←H .

151 Section 3. Section 72-1-305 is amended to read:

152 **72-1-305. Project selection using the written prioritization process -- Public**
153 **comment -- Report.**

154 (1) Except as provided in Subsection (4), in determining priorities and funding levels
155 of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new
156 transportation capacity projects, the commission shall use the weighted criteria system adopted
157 in the written prioritization process under Section 72-1-304.

158 (2) Prior to finalizing priorities and funding levels of projects in the state transportation
159 system, the commission shall conduct public hearings at locations around the state and accept
160 public comments on:

161 (a) the written prioritization process;

162 (b) the merits of new transportation capacity projects that will be prioritized under this
163 section; and

164 (c) the merits of new transportation capacity projects as recommended by a consensus
165 of local elected officials participating in a metropolitan planning organization as defined in
166 Section 72-1-208.5.

167 (3) The commission shall make the weighted criteria system ranking for each project
168 publicly available prior to the public hearings held under Subsection (2).

169 (4) (a) If the commission prioritizes a project over another project with a higher rank
170 under the weighted criteria system, the commission shall identify the change and accept public
171 comment at a hearing held under this section on the merits of prioritizing the project above
172 higher ranked projects.

173 (b) The commission shall make the reasons for the prioritization under Subsection
174 (4)(a) publicly available.

175 (5) The executive director or the executive director's designee shall report annually to
176 the governor and a committee designated by the Legislative Management Committee no later
177 than the last day of October:

178 (a) the projects prioritized under this section during the year prior to the report; and

179 (b) the status and progress of all projects prioritized under this section.

180 (6) (a) The department may not delay a new transportation capacity project that was
181 funded by the Legislature in an appropriations act ~~H~~→ to a different fiscal year than programmed
181a by the commission ←H due to an unavoidable shortfall in revenues
182 unless the project delays are prioritized and approved by the Transportation Commission.

183 (b) The Transportation Commission shall prioritize and approve any new
184 transportation capacity project delays for projects that were funded by the Legislature in an
185 appropriations act due to an unavoidable shortfall in revenues.

186 Section 4. Section **72-2-125** is amended to read:

187 **72-2-125. Critical Highway Needs Fund.**

188 (1) There is created a restricted special revenue fund entitled the Critical Highway
189 Needs Fund.

190 (2) The fund consists of monies generated from the following sources:

191 (a) any voluntary contributions received for the maintenance, construction,
192 reconstruction, or renovation of state and federal highways;

193 (b) appropriations made to the fund by the Legislature; and

194 (c) the sales and use tax revenues deposited into the fund in accordance with Section
195 59-12-103.

196 (3) (a) The fund shall earn interest.

197 (b) All interest earned on fund monies shall be deposited into the fund.

198 (4) (a) The executive director shall use monies deposited into the fund to pay:

199 (i) the costs of right-of-way acquisition, maintenance, construction, reconstruction, or
200 renovation to state and federal highways identified by the department and prioritized by the
201 commission in accordance with this Subsection (4); and

202 (ii) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101.

203 (b) (i) The department shall:

204 (A) establish a complete list of projects to be maintained, constructed, reconstructed, or
205 renovated using the funding described in Subsection (4)(a) based on the following criteria:

206 (I) the highway construction project is a high priority project due to high growth in the
207 surrounding area;

208 (II) the highway construction project addresses critical access needs that have a high
209 impact due to commercial and energy development;

210 (III) the highway construction project mitigates congestion;

211 (IV) whether local matching funds are available for the highway construction project;

212 and

213 (V) the highway construction project is a critical alternative route for priority Interstate

214 15 reconstruction projects; and

215 (B) submit the list of projects to the commission for prioritization in accordance with
216 Subsection (4)(c).

217 (ii) A project that is included in the list under this Subsection (4):

218 (A) is not required to be currently listed in the statewide long-range plan; and

219 (B) is not required to be prioritized through the prioritization process for new
220 transportation capacity projects adopted under Section 72-1-304.

221 (c) (i) The commission shall prioritize the project list submitted by the department in
222 accordance with Subsection (4)(b).

223 (ii) For projects prioritized under this Subsection (4)(c), the commission shall give
224 priority consideration to fully funding a project that meets the criteria under Subsection
225 (4)(b)(i)(A)(V).

226 (d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101
227 by the department for the construction of highway projects prioritized under this Subsection (4)
228 may not exceed \$1,200,000,000.

229 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds
230 issued under Section 63B-16-101 are not considered expenditures for purposes of the
231 \$1,200,000,000 cap under Subsection (4)(d)(i).

232 (e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal
233 year, the department and the commission shall appear before the Executive Appropriations
234 Committee of the Legislature and present:

235 (A) the commission's current list of projects established and prioritized in accordance
236 with this Subsection (4); and

237 (B) the amount of bond proceeds that the department needs to provide funding for
238 projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal
239 year.

240 (ii) The Executive Appropriations Committee of the Legislature shall review and
241 comment on the prioritized project list and the amount of bond proceeds needed to fund the
242 projects on the prioritized list.

243 (f) The Division of Finance shall, from monies deposited into the fund, transfer the
244 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by

245 Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

246 (5) When the general obligation bonds authorized by Section 63B-16-101 have been
 247 paid off and the highway projects completed that are included in the prioritized project list
 248 under Subsection (4), the Division of Finance shall transfer any existing balance in the fund
 249 into the Transportation Investment Fund of 2005 created by Section 72-2-124.

250 (6) (a) The Division of Finance shall monitor the general obligation bonds authorized
 251 by Section 63B-16-101.

252 (b) The department shall monitor the highway construction or reconstruction projects
 253 that are included in the prioritized project list under Subsection (4).

254 (c) Upon request by the Executive Appropriations Committee of the Legislature:

255 (i) the Division of Finance shall report to the committee the status of all general
 256 obligation bonds issued under Section 63B-16-101; and

257 (ii) the department shall report to the committee the status of all highway construction
 258 or reconstruction projects that are included in the prioritized project list under Subsection (4).

259 (d) When the Division of Finance has reported that the general obligation bonds issued
 260 by Section 63B-16-101 have been paid off and the department has reported that projects
 261 included in the prioritized project list are complete to the Executive Appropriations Committee
 262 of the Legislature, the Division of Finance shall transfer any existing fund balance in
 263 accordance with Subsection (5).

264 (7) (a) Unless prioritized and approved by the Transportation Commission, the
 265 department may not delay a project prioritized under this section ~~H~~→ to a different fiscal year
 265a than programmed by the commission ←~~H~~ due to an unavoidable
 266 shortfall in revenues if:

267 (i) the prioritized project was funded by the Legislature in an appropriations act; or

268 (ii) general obligation proceeds have been issued for the project in the current fiscal
 269 year.

270 (b) The commission shall prioritize and approve any project delays for projects
 271 prioritized under this section ~~H~~→ to a different fiscal year than programmed by the
 271a commission ←~~H~~ due to an unavoidable shortfall in revenues if:

272 (i) the prioritized project was funded by the Legislature in an appropriations act; or

273 (ii) general obligation proceeds have been issued for the project in the current fiscal
 274 year.

Legislative Review Note
as of 2-17-09 4:55 PM

Office of Legislative Research and General Counsel

H.B. 371 - Transportation Governance

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. However, if additional Transportation Commission Meetings are required it is estimated to cost \$1,400 from the Transportation Fund per meeting.

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.
