

Senator Peter C. Knudson proposes the following substitute bill:

UTAH STATE RAILROAD MUSEUM

AUTHORITY ACT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: _____

LONG TITLE

General Description:

This bill creates the "Utah State Railroad Museum Authority."

Highlighted Provisions:

This bill:

- ▶ creates the "Utah State Railroad Museum Authority" as an independent body politic and corporate, establishes its membership, and provides operational procedures;
- ▶ provides for the powers and duties of the authority and its executive director;
- ▶ provides that the authority's financial obligations are not obligations of the state;
- ▶ provides that the authority is responsible for the maintenance of its properties; and
- ▶ exempts the authority from the Funds Consolidation Act, Budgetary Procedures Act, Utah Procurement Code, Utah State Personnel Management Act, and the Department of Administrative Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 **9-3-501**, Utah Code Annotated 1953

28 **9-3-502**, Utah Code Annotated 1953

29 **9-3-503**, Utah Code Annotated 1953

30 **9-3-504**, Utah Code Annotated 1953

31 **9-3-505**, Utah Code Annotated 1953

32 **9-3-506**, Utah Code Annotated 1953

33 **9-3-507**, Utah Code Annotated 1953

34 **9-3-508**, Utah Code Annotated 1953

35 **9-3-509**, Utah Code Annotated 1953

36 **9-3-510**, Utah Code Annotated 1953



37
38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **9-3-501** is enacted to read:

40 **Part 5. Utah State Railroad Museum Authority**

41 **9-3-501. Title.**

42 This part is known as the "Utah State Railroad Museum Authority."

43 Section 2. Section **9-3-502** is enacted to read:

44 **9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**
45 **expenses.**

46 (1) There is created an independent body politic and corporate known as the "Utah
47 State Railroad Museum Authority," hereafter referred to in this part as "the authority."

48 (2) The authority is composed of 11 members as follows:

49 (a) one member of the county legislative body of Weber County appointed by that
50 legislative body;

51 (b) two members of the county legislative body of Box Elder County appointed by that
52 legislative body;

53 (c) the executive director of the Department of Transportation or the director's
54 designee; and

55 (d) seven public members appointed by the governor, as follows:

56 (i) two individuals representing the tourism industry, one each from Weber and Box

57 Elder Counties;

58 (ii) one individual representing the public at large; and

59 (iii) four individuals representing railroad historic and heritage preservation

60 organizations active in Weber and Box Elder Counties, as follows:

61 (A) one individual representing the Railroad and Locomotive Historical Society

62 Golden Spike Chapter;

63 (B) one individual representing the Union Station Foundation;

64 (C) one individual representing the Golden Spike Heritage Foundation; and

65 (D) one individual representing the Golden Spike Historic Site.

66 (3) All members shall be residents of the state.

67 (4) (a) Except as required by Subsection (4)(b), the governor shall appoint the seven
68 public members for four-year terms beginning July 1.

69 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
70 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
71 authority members appointed under Subsection (2)(d) are staggered so that approximately
72 one-half of the seven public members are appointed every two years.

73 (5) Any of the seven public members may be removed from office by the governor or
74 for cause by an affirmative vote of six members of the authority.

75 (6) When a vacancy occurs in the public membership for any reason, the governor shall
76 appoint a replacement for the unexpired term.

77 (7) Each public member shall hold office for the term of the member's appointment and
78 until a successor has been appointed and qualified.

79 (8) A public member is eligible for reappointment, but may not serve more than two
80 full consecutive terms.

81 (9) The governor shall appoint the chair of the authority from among its members.

82 (10) (a) The members shall elect from among their membership a vice chair and other
83 officers as they may determine.

84 (b) The officers serve as the executive committee for the authority.

85 (11) The powers of the authority are vested in its members.

86 (12) (a) Six members constitute a quorum for transaction of authority business.

87 (b) An affirmative vote of at least six members is necessary for an action to be taken

88 by the authority.

89 (13) (a) A member who is not a government employee receives no compensation or
90 benefits for the member's services, but may receive per diem and expenses incurred in the
91 performance of the member's official duties at rates established by the Division of Finance
92 under Sections 63A-3-106 and 63A-3-107.

93 (b) A state government officer or employee member who does not receive salary, per
94 diem, or expenses from the member's agency for the member's service may receive per diem
95 and expenses incurred in the performance of official duties from the authority at rates
96 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

97 (c) A local government member who does not receive salary, per diem, or expenses for
98 the member's service from the entity that the member represents may receive per diem and
99 expenses incurred in the performance of the member's official duties at rates established by the
100 Division of Finance under Sections 63A-3-106 and 63A-3-107.

101 (d) A member may decline to receive per diem and expenses for the member's services.

102 Section 3. Section **9-3-503** is enacted to read:

103 **9-3-503. Executive director -- Powers and duties.**

104 (1) (a) The members of the authority shall appoint an executive director who is an
105 employee of the authority, but who is not a member of the authority.

106 (b) The executive director serves at the pleasure of the members and receives
107 compensation as set by the members and approved by the governor.

108 (2) The executive director shall:

109 (a) administer, manage, and direct the affairs and activities of the authority in
110 accordance with the policies, control, and direction of the members of the authority;

111 (b) approve all accounts for allowable expenses of the authority or of any of its
112 employees and expenses incidental to the operation of the authority;

113 (c) attend meetings of the authority;

114 (d) keep a record of the proceedings of the authority;

115 (e) maintain and be the custodian of all books, documents, and papers filed with the
116 authority;

117 (f) document and maintain records concerning ownership of all assets owned or under
118 the control of the authority; and

119 (g) perform other duties as directed by the members of the authority in carrying out the
120 purposes of this part.

121 Section 4. Section **9-3-504** is enacted to read:

122 **9-3-504. Member or employee -- Disclosure of interest.**

123 (1) A member or employee of the authority who has, will have, or later acquires an
124 interest, direct or indirect, in a transaction with the authority shall immediately disclose the
125 nature and extent of that interest in writing to the authority as soon as the individual has
126 knowledge of the actual or prospective interest.

127 (2) The disclosure shall be entered upon the minutes of the authority.

128 (3) After making the disclosure, the member or employee may participate in any action
129 by the authority authorizing the transaction.

130 Section 5. Section **9-3-505** is enacted to read:

131 **9-3-505. Officer or employee -- No forfeiture of office or employment.**

132 Notwithstanding any other provision of law, an officer or employee of this state does
133 not forfeit the office or employment with the state by reason of acceptance of membership on
134 the authority or service on it.

135 Section 6. Section **9-3-506** is enacted to read:

136 **9-3-506. Authority -- Powers.**

137 (1) The authority shall:

138 (a) facilitate or operate and maintain a scenic and historic railroad in and around Weber
139 and Box Elder Counties;

140 (b) facilitate or operate and maintain one or more railroad history museums in and
141 around Weber and Box Elder Counties;

142 (c) facilitate the restoration, preservation, and public display of railroad artifacts and
143 heritage in and around Weber and Box Elder Counties; and

144 (d) facilitate the restoration, preservation, and operation of historically significant
145 railroad related properties in and around Weber and Box Elder Counties for public benefit.

146 (2) The authority has perpetual succession as a body politic and corporate and may:

147 (a) adopt, amend, and repeal policies and procedures for the regulation of its affairs and
148 the conduct of its business;

149 (b) sue and be sued in its own name;

- 150 (c) maintain an office at a place or places it designates within the state;
- 151 (d) adopt, amend, and repeal bylaws and rules, consistent with this part, to carry into
- 152 effect the powers and purposes of the authority and the conduct of its business;
- 153 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;
- 154 (f) employ experts and other professionals it considers necessary;
- 155 (g) employ and retain independent legal counsel;
- 156 (h) make and execute contracts and all other instruments necessary or convenient for
- 157 the performance of its duties under this part as described in Subsection (1);
- 158 (i) procure insurance for liability and against any loss in connection with its property
- 159 and other assets in amounts and from insurers it considers desirable;
- 160 (j) receive appropriations from the Legislature and receive other public moneys and
- 161 accept aid or contributions from any source of money, property, labor, or other things of value
- 162 to be held, used, and applied to carry out the purposes of this part, subject to the conditions
- 163 upon which the grants and contributions are made, including gifts or grants from a department,
- 164 agency, or instrumentality of the United States or of this state for any purpose consistent with
- 165 this part;
- 166 (k) enter into agreements with a department, agency, or instrumentality of the United
- 167 States or this state for the purpose of providing for the operation and maintenance of a scenic
- 168 railway in and around Weber and Box Elder Counties; and
- 169 (l) do any act necessary or convenient to the exercise of the powers granted to the
- 170 authority by this part.
- 171 (3) (a) All monies received by the authority under Subsection (2)(j) and from any other
- 172 source are for the exclusive use of the authority in the performance and exercise of its duties
- 173 under this part as described in Subsection (1).
- 174 (b) Monies received by the authority may not be used for any other purpose or by any
- 175 other entity.

176 Section 7. Section **9-3-507** is enacted to read:

177 **9-3-507. Notes, bonds, other obligation -- Not debt liability -- Expenses payable**

178 **from funds provided -- Agency without authority to incur liability on behalf of state.**

179 (1) (a) An obligation or liability of the authority does not constitute:

180 (i) a debt or liability of the state or of any of its political subdivisions; or

- 181 (ii) the loaning of credit of the state or of any of its political subdivisions.
- 182 (b) An obligation or liability of the authority is payable only from funds of the
- 183 authority.
- 184 (2) An obligation of the authority shall contain a statement to the effect:
- 185 (a) that the authority is obligated to pay the obligation solely from the revenues or other
- 186 funds of the authority;
- 187 (b) that neither the state nor its political subdivisions are obligated to pay it; and
- 188 (c) that neither the faith and credit nor the taxing power of the state or any of its
- 189 political subdivisions is pledged to the payment of the obligation.

190 (3) (a) Expenses incurred in carrying out this part are payable solely from funds of the
 191 authority provided under this part.

192 (b) Nothing in this part authorizes the authority to incur indebtedness or liability on
 193 behalf of or payable by the state or any of its political subdivisions.

194 Section 8. Section **9-3-508** is enacted to read:

195 **9-3-508. Relation to certain acts.**

- 196 (1) The authority is exempt from:
- 197 (a) Title 51, Chapter 5, Funds Consolidation Act;
- 198 (b) Title 63A, Chapter 1, Department of Administrative Services;
- 199 (c) Title 63G, Chapter 6, Utah Procurement Code;
- 200 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 201 (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- 202 (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3,
- 203 Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

204 Section 9. Section **9-3-509** is enacted to read:

205 **9-3-509. Duty to maintain rails and operating equipment.**

- 206 (1) The authority shall maintain the rails, bed, right-of-way, and related property owned
- 207 by the authority upon which the authority's train operates in compliance with state and federal
- 208 statutes, rules, and regulations.
- 209 (2) The authority shall require any party from whom it leases or otherwise utilizes rails,
- 210 bed, right-of-way, motive power, rolling stock, and related property that the property be
- 211 delivered and maintained in compliance with state and federal statutes, rules, and regulations.

212 Section 10. Section **9-3-510** is enacted to read:

213 **9-3-510. Lease of rails or equipment from Department of Transportation and**
214 **Division of Parks and Recreation.**

215 The Department of Transportation and the Division of Parks and Recreation may jointly
216 lease the rails, bed, right-of-way, and related property for the operation of a scenic and historic
217 railroad in and around Weber and Box Elder Counties, for not more than \$1 per year to the
218 authority.