

HIGHWAY AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Rights-of-Way Act by enacting provisions relating to public uses constituting an abandonment and dedication of a highway to the public.

Highlighted Provisions:

This bill:

requires that if multiple highways, which have been dedicated and abandoned to the use of the public, cross privately owned land and follow substantially similar routes, then the highway authority having jurisdiction over each highway shall, upon petition by the private landowner:

- select the highway route that least impacts the owner of the private property over which the highways run as the highway route that is dedicated to the use of the public; and

- abandon all of the other substantially similar highway routes;

provides that if a highway that has been dedicated and abandoned to the use of the public crosses privately owned land, the private landowner may petition to realign the highway in a manner proposed by the private landowner that lessens the impact of the highway on the use of the private land;

requires the highway authority having jurisdiction over the highway or the highway authority that would have jurisdiction over the highway to realign the highway and abandon rights to the existing highway alignment if the newly proposed highway



28 alignment, or a modification thereof, provides substantially similar transportation services as
29 the existing highway alignment; and

30 ▶ provides that a district court reviewing a decision made by a highway authority shall
31 grant substantial deference to the highway authority's determination but shall review
32 by trial de novo a highway authority's determination on the issues.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 ENACTS:

39 72-5-104.1, Utah Code Annotated 1953

40 72-5-104.2, Utah Code Annotated 1953

41 72-5-104.3, Utah Code Annotated 1953



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

44 Section 1. Section 72-5-104.1 is enacted to read:

45 **72-5-104.1. Multiple public use highways on substantially similar routes.**

46 (1) If multiple highways, which have been dedicated and abandoned to the use of the
47 public under Section 72-5-104, cross privately owned land and follow substantially similar
48 routes, such as having substantially similar starting and ending points, then the highway
49 authority having jurisdiction over each highway shall, upon petition by the private landowner:

50 (a) select the highway route that least impacts the owner of the private property over
51 which the highways run as the highway route that is dedicated to the use of the public; and

52 (b) abandon all of the substantially similar highway routes that are not described in
53 Subsection (1)(a).

54 (2) If a highway authority is required to abandon a highway under this section, the
55 highway authority shall be considered to have abandoned and terminated any rights of the
56 highway authority under Sections 72-3-102, 72-3-103, 72-3-104, 72-3-105, and 72-5-103.

57 Section 2. Section 72-5-104.2 is enacted to read:

58 **72-5-104.2. Realignment of public use highways -- Petition.**

59 (1) If a highway that has been dedicated and abandoned to the use of the public under
60 Section 72-5-104 crosses privately owned land, the private landowner may petition the
61 highway authority having jurisdiction over the highway or the highway authority that would
62 have jurisdiction over the highway to realign the highway in a manner proposed by the private
63 landowner that lessens the impact of the highway on the use of the private land.

64 (2) (a) After receiving a petition under Subsection (1), the highway authority having
65 jurisdiction over the highway or the highway authority that would have jurisdiction over the
66 highway shall realign the highway and abandon rights to the existing highway alignment if the
67 newly proposed highway alignment, or a modification thereof, provides substantially similar
68 transportation services as the existing highway alignment, such as starting and ending at
69 substantially similar points.

70 (b) A highway authority may not deny a realignment under Subsection (2)(a) on the
71 grounds that the proposed new highway alignment is longer than the existing highway
72 alignment.

73 (3) If the highway authority is required to realign a highway under this section and
74 abandon rights to the existing alignment of a highway, the highway authority shall be
75 considered to have abandoned and terminated any rights of the highway authority to the
76 existing highway alignment under Sections 72-3-102, 72-3-103, 72-3-104, 72-3-105, and
77 72-5-103.

78 Section 3. Section 72-5-104.3 is enacted to read:

79 **72-5-104.3. Judicial review.**

80 A district court reviewing a decision made by a highway authority pursuant to Sections
81 72-5-104.1 and 72-5-104.2 shall grant substantial deference to the highway authority's
82 determination but shall review by trial de novo a highway authority's determination on the
83 issues raised in Sections 72-5-104.1 and 72-5-104.2.

Legislative Review Note
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Office of Legislative Research and General Counsel