

Wayne A. Harper proposes the following substitute bill:

Railroad and Transportation Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses railroad provisions.

Highlighted Provisions:

This bill:

- modifies the duties of the Department of Agriculture and Food related to railroad operations;
 - amends the duties of the rail ombudsman;
 - delays the implementation of changes regarding right of way infrastructure improvements;
- and
- repeals certain sections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-103, as last amended by Laws of Utah 2023, Chapters 126, 232

56-1-39, as last amended by Laws of Utah 2024, Chapter 438

63I-2-256, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

72-18-102, as enacted by Laws of Utah 2024, Chapter 531

REPEALS:

56-1-12, as last amended by Laws of Utah 2024, Chapter 531

56-1-13, as last amended by Laws of Utah 2024, Chapter 531

72-17-101, as last amended by Laws of Utah 2024, Chapter 517

72-17-102, as last amended by Laws of Utah 2024, Chapter 517

72-17-103, as last amended by Laws of Utah 2024, Chapter 531

72-17-104, as last amended by Laws of Utah 2024, Chapter 531

72-17-105, as last amended by Laws of Utah 2024, Chapter 531

72-17-106, as last amended by Laws of Utah 2024, Chapter 531

72-17-107, as last amended by Laws of Utah 2024, Chapter 531

72-17-108, as last amended by Laws of Utah 2024, Chapter 531

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

Section 1. Section **4-2-103** is amended to read:

**4-2-103 . Functions, powers, and duties of department -- Fees for services --
Marketing orders -- Procedure -- Purchasing and auditing.**

(1) The department shall:

- (a) inquire into and promote the interests and products of agriculture and allied industries;
- (b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;
- (c)(i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and
(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;
- (d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;
- (e) issue marketing orders for any designated agricultural product to:
 - (i) promote orderly market conditions for any product;
 - (ii) give the producer a fair return on the producer's investment at the marketplace; and
 - (iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;
- (f) administer and enforce all laws assigned to the department by the Legislature;
- (g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;
- (h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

- 63 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules
64 necessary for the effective administration of the agricultural laws of the state;
- 65 (j) when necessary, make investigations, subpoena witnesses and records, conduct
66 hearings, issue orders, and make recommendations concerning matters related to
67 agriculture;
- 68 (k)(i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any
69 private or public place that may become infested or infected with harmful insects,
70 plant diseases, noxious or poisonous weeds, or other agricultural pests;
- 71 (ii) establish and enforce quarantines;
- 72 (iii) issue and enforce orders and rules for the control and eradication of pests,
73 wherever they may exist within the state; and
- 74 (iv) perform other duties relating to plants and plant products considered advisable
75 and not contrary to law;
- 76 (l) inspect apiaries for diseases inimical to bees and beekeeping;
- 77 (m) take charge of any agricultural exhibit within the state, if considered necessary by
78 the department, and award premiums at that exhibit;
- 79 (n) provide for the coordination of state conservation efforts, including by:
- 80 (i) assisting the Conservation Commission in the administration of Chapter 18,
81 Conservation Commission Act;
- 82 (ii) implementing Chapter 46, Conservation Coordination Act, including entering into
83 agreements with other state agencies; and
- 84 (iii) administering and disbursing money available to assist conservation districts in
85 the state in the conservation of the state's soil and water resources;
- 86 (o) participate in the United States Department of Agriculture certified agricultural
87 mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;
- 88 (p) promote and support the multiple use of public lands;
- 89 (q) ensure that any training or certification required of a public official or public
90 employee, as those terms are defined in Section 63G-22-102, complies with Title
91 63G, Chapter 22, State Training and Certification Requirements, if the training or
92 certification is required:
- 93 (i) under this title;
- 94 (ii) by the department; or
- 95 (iii) by an entity within the department;
- 96 ~~[(r) administer the requirements described in Section 56-1-12 pertaining to livestock~~

- 97 ~~damaged by railroad operations;~~
- 98 ~~[(s)]~~ (r) in accordance with Title 73, Chapter 3d, Part 4, Compensation:
- 99 (i) conduct mediation or arbitration; and
- 100 (ii) assist in the issuance of loans by the Conservation Commission; and
- 101 ~~[(t)]~~ (s) perform any additional functions, powers, and duties provided by law.
- 102 (2) The department, by following the procedures and requirements of Section 63J-1-504,
- 103 may adopt a schedule of fees assessed for services provided by the department.
- 104 (3)(a) A marketing order issued under Subsection (1)(e) may not take effect until:
- 105 (i) the department gives notice of the proposed order to the producers and handlers of
- 106 the affected product;
- 107 (ii) the commissioner conducts a hearing on the proposed order; and
- 108 (iii) at least 50% of the registered producers and handlers of the affected products
- 109 vote in favor of the proposed order.
- 110 (b)(i) The department may establish boards of control to administer marketing orders
- 111 and the proceeds derived from any order.
- 112 (ii) A board of control shall:
- 113 (A) ensure that proceeds are placed in an account in the board of control's name in
- 114 a depository institution; and
- 115 (B) ensure that the account is annually audited by an accountant approved by the
- 116 commissioner.
- 117 (4) Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited
- 118 into the General Fund as dedicated credits for the grain grading program.
- 119 (5) In fulfilling the department's duties in this chapter, the department may:
- 120 (a) purchase, as authorized or required by law, services that the department is
- 121 responsible to provide for legally eligible persons;
- 122 (b) take necessary steps, including legal action, to recover money or the monetary value
- 123 of services provided to a recipient who is not eligible;
- 124 (c) examine and audit the expenditures of any public funds provided to a local authority,
- 125 agency, or organization that contracts with or receives funds from those authorities or
- 126 agencies;
- 127 (d) accept and administer grants from the federal government and from other sources,
- 128 public or private; and
- 129 (e) fund grants using money appropriated by the Legislature or money received from
- 130 any other source.

Section 2. Section **56-1-39** is amended to read:

56-1-39 . Assessment for right of way infrastructure improvements.

(1) The provisions in this section apply beginning on [~~May 7, 2025~~] May 6, 2026.

(2) As used in this section:

(a) "Benefit" includes enhanced property value, enhanced safety or efficiency, reduced costs, and liability avoidance.

(b) "Government entity" means the state or a county, city, town, special district, or special service district.

(c)(i) "Railroad" means a rail carrier that is a Class I railroad, as classified by the federal Surface Transportation Board.

(ii) "Railroad" does not include a rail carrier that is:

(A) exempt from assessment under 49 U.S.C. Sec. 24301; or

(B) owned by a government entity.

(d)(i) "Right of way infrastructure improvement" means construction, reconstruction, repair, or maintenance of public infrastructure that:

(A) is paid for by a government entity; and

(B) is partially or wholly within a railroad's right of way or crosses over a railroad's right of way.

(ii) "Right of way infrastructure improvement" includes any component of construction, reconstruction, repair, or maintenance of public infrastructure, including:

(A) any environmental impact study, environmental mitigation, or environmental project management; and

(B) any required or requested review by a non-governmental entity.

(e) "Public infrastructure" means any of the following improvements:

(i) a system or line for water, sewer, drainage, electrical, or telecommunications;

(ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;

(iii) signage or signaling related to an improvement described in Subsection (2)(e)(i) or (ii);

(iv) an environmental improvement; or

(v) any other improvement similar to the improvements described in Subsections (2)(e)(i) through (iv).

(3) A government entity may, to the extent allowed under federal law, assess a railroad for any portion of the cost of a right of way infrastructure improvement, including any cost

attributable to delay, if:

- (a) the government entity determines that the right of way infrastructure improvement provides a benefit to the railroad;
- (b) the amount of the assessment is proportionate to the benefit the railroad receives, as determined by the government entity; and
- (c) the government entity uses the assessment to pay for or as reimbursement for the cost of the right of way infrastructure improvement and not for the general support of the government entity.

(4)(a) If two or more government entities have authority under this section to assess a railroad for the same right of way infrastructure improvement, the ~~Office of Rail Safety created in Section 72-17-101~~ Department of Transportation shall:

- (i) determine the amount of each government entity's assessment in accordance with Subsection (3);
 - (ii) assess the railroad for the total of all amounts described in Subsection (4)(a)(i); and
 - (iii) distribute the collected assessments to each government entity.
- (b) The total amount of an assessment under this Subsection (4) may not exceed the amount described in Subsection (3)(b).
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to establish a process for implementing the provisions of this Subsection (4).

Section 3. Section **63I-2-256** is amended to read:

63I-2-256 . Repeal dates: Title 56.

~~[(1) Section 56-1-12.1, Injury to livestock -- Notice, is repealed May 7, 2025.]~~

~~[(2) Section 56-1-13.1, Fencing right-of-way -- Gates, is repealed May 7, 2025.]~~

Section 4. Section **72-18-102** is amended to read:

72-18-102 . Rail ombudsman -- Duties.

(1) The rail ombudsman shall:

- (a) develop and maintain expertise in and understanding of laws and regulations relating to rail;
- (b) coordinate, consult, and provide information to private citizens, government entities, rail operators, stakeholders, and other interested parties about rail related issues;
- (c) on the rail ombudsman's website, provide:
 - (i) updated, easily accessible information about the duties of the rail ombudsman; and

- 199 (ii) a form that a member of the public, including a railroad company employee, may
200 use to submit a report or complaint;
- 201 (d) provide education and training regarding rail laws and regulations; and
- 202 (e) arrange and facilitate meetings between a rail company and one or more of the
203 following, to resolve a rail dispute described in Subsection (2):
- 204 (i) a local government entity;
- 205 (ii) a large public transit district; or
- 206 (iii) a private property or livestock owner.
- 207 (2) The rail ombudsman shall facilitate meetings described in Subsection (1)(e) to resolve
208 issues relating to:
- 209 (a) safety;
- 210 (b) at-grade and grade-separated rail crossings;
- 211 (c) fencing;
- 212 (d) injury to or loss of livestock;
- 213 (e) railroad maintenance, including maintenance agreements and road closures;
- 214 (f) improvements to railroad right-of-way infrastructure;
- 215 (g) track realignment;
- 216 (h) track consolidation; or
- 217 (i) any other issue that has caused a dispute between a rail company and a party
218 described in Subsection (1)(e).
- 219 (3) If the rail ombudsman invites a rail company or another party described in Subsection
220 (1)(e) to a meeting to resolve a rail dispute, the rail company or other person shall:
- 221 (a) attend the meeting; and
- 222 (b) attempt to resolve the dispute through the rail ombudsman before filing an action in
223 court or seeking another remedy.
- 224 (4) A rail company and a party described in Subsections (1)(e)(i) through (iii) shall provide
225 notice to the rail ombudsman before:
- 226 (a) closing a highway for railroad maintenance; or
- 227 (b) starting a construction project involving:
- 228 (i) an at-grade rail crossing; or
- 229 (ii) the realignment or consolidation of railroad tracks.
- 230 (5) The rail ombudsman may not address nor participate in:
- 231 (a) organized labor issues or disputes; or
- 232 (b) rail company employee safety issues.

(6) If a report or complaint described in Subsection (1)(c)(ii) is made in regard to a rail company, the rail ombudsman shall forward the report or complaint to the relevant rail company or other appropriate agency or entity.

Section 5. Repealer.

This bill repeals:

Section 56-1-12, Injury to livestock -- Notice -- Railroad Livestock Damages Fund and Board -- Appeals -- Compensation and fees -- Rulemaking.

Section 56-1-13, Fencing right-of-way -- Gates.

Section 72-17-101, Office of Rail Safety -- Creation -- Applicability.

Section 72-17-102, Definitions.

Section 72-17-103, Duties of the Office of Rail Safety.

Section 72-17-104, Federal Railroad Administration grant program.

Section 72-17-105, Establishment of administrative fees -- Payment -- Expenditures.

Section 72-17-106, Office of Rail Safety Account.

Section 72-17-107, Rulemaking regarding railroad clearances and walkways.

Section 72-17-108, Agreements to indemnify in a railroad contract.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.