

RAILROAD RIGHT OF WAY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill enacts provisions related to improvements within railroad right of ways.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ authorizes a government entity to assess a railroad for any portion of the cost of a public infrastructure improvement, if:
 - the improvement is partially or wholly within the railroad's right of way;
 - the improvement provides a benefit to the railroad; and
 - the assessment is proportionate to the railroad's benefit.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

56-1-39, Utah Code Annotated 1953

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

Section 1. Section **56-1-39** is enacted to read:

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

(1) 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, metro township, local district, or special service district.

(c) "Right of way infrastructure improvement" means construction, reconstruction,

- 33 repair, or maintenance of public infrastructure that:
- 34 (i) is paid for by a government entity; and
- 35 (ii) (A) is partially or wholly within a railroad's right of way; or
- 36 (B) crosses over a railroad's right of way.
- 37 (d) "Public infrastructure" means any of the following improvements:
- 38 (i) a system or line for water, sewer, drainage, electrical, or telecommunications;
- 39 (ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;
- 40 (iii) signage or signaling related to an improvement described in Subsection (1)(d)(i) or
- 41 (ii); or
- 42 (iv) any other improvement similar to the improvements described in Subsections
- 43 (1)(d)(i) through (iii).
- 44 (2) A government entity may, to the extent allowed by assess a railroad for any portion
- 45 of the cost of a right of way infrastructure improvement, if:
- 46 (a) the government entity determines that the right of way infrastructure improvement
- 47 provides a benefit to the railroad;
- 48 (b) the amount of the assessment is proportionate to the benefit the railroad receives, as
- 49 determined by the government entity; and
- 50 (c) the government entity uses the assessment to pay for or as reimbursement for the
- 51 cost of the right of way infrastructure improvement and not for the general support of the
- 52 government entity.
- 53 (3) If more than one government entity assesses a railroad for the same right of way
- 54 infrastructure improvement, the total amount of the assessments may not exceed the amount
- 55 described in Subsection (2)(b).
- 56 (4) This section does not apply to a railroad that is exempt from assessment under 49
- 57 U.S.C. Sec. 24301 or a railroad owned by a government entity.