

72-5-203 Public easement or right of entry -- Grant -- Application -- Conditions.

- (1)
 - (a)
 - (i) Subject to Section 53C-1-302 and Subsection 53C-1-204(1), a temporary public easement or right of entry is granted for each highway existing prior to January 1, 1992, that terminates at or within or traverses any state lands and that has been constructed and maintained or used by a responsible authority.
 - (ii) The temporary public easement or right of entry granted under Subsection (1)(a)(i) is 100 feet wide for each class A and B highway.
 - (b) Each easement shall remain in effect through June 30, 2004, or until a permanent easement or right of entry has been established under Subsection (2), whichever is greater.
- (2)
 - (a) The School and Institutional Trust Lands Administration and the Division of Forestry, Fire, and State Lands shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing an application process for a responsible authority to obtain a permanent easement or right of entry over any temporary public easement granted under Subsection (1), subject to the provisions of Subsections (2)(b), (c), and (d).
 - (b) A grant of a permanent easement or right of entry across sovereign lands shall be made upon a showing to the Division of Forestry, Fire, and State Lands that continued use of the easement will provide a public benefit commensurate with the value of the permanent easement or right of entry.
 - (c) A grant of a permanent easement or right of entry across trust lands shall be made upon a showing to the School and Institutional Trust Lands Administration that the grant is consistent with the state's fiduciary responsibilities under Section 53C-1-302 and Subsection 53C-1-204(1).
 - (d) A grant of a permanent easement or right of entry across state lands other than sovereign and trust lands shall be made upon a showing to the managing unit of state government that the continued use will provide a public benefit commensurate with the value of the easement and will not unreasonably interfere with the purposes for which the land was obtained or is now held.
- (3) The grant of the temporary public easement or right of entry under Subsection (1) is consistent with the trust responsibilities of the state and in the best interest of the state.
- (4) A responsible authority that has been granted a permanent easement or right of entry over state lands may maintain the permanent easement or right of entry for the uses to which the permanent easement or right of entry was put prior to and including January 1, 1992, subject to the right of the managing unit of state government or private party to relocate the permanent easement or right of entry.
- (5) The grant of a permanent easement or right of entry under this section is effective on the date the highway was originally constructed or established for public use.

Amended by Chapter 344, 2009 General Session