

### **Part 3**

## **Approval of Highway Facilities on Sovereign Lands Act**

#### **72-6-301 Title.**

This part is known as the "Approval of Highway Facilities on Sovereign Lands Act."

Enacted by Chapter 256, 2011 General Session

#### **72-6-302 Definitions.**

As used in this part:

- (1) "Sovereign lands" has the same meaning as defined in Section 65A-1-1.
- (2) "Tollway" has the same meaning as defined in Section 72-6-118.

Amended by Chapter 369, 2012 General Session

#### **72-6-303 Approval to construct highway facility over sovereign lakebed lands.**

- (1)
  - (a) The commission shall review and may approve a proposed plan for the construction of a highway facility over sovereign lakebed lands.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing minimum guidelines for an application to construct a highway facility over sovereign lakebed lands.
- (2) As part of an application to lease sovereign land, a private entity seeking to obtain a lease over sovereign lakebed lands shall submit an application to the commission for approval from the commission to construct a highway facility over sovereign lakebed lands.
- (3) A private entity shall include in an application described in Subsection (2):
  - (a) a map indicating the location and legal description of the highway facility and all proposed interconnections with other highway facilities;
  - (b) a description of the highway facility, including the conceptual design of the highway facility and a statement whether the highway facility will be operated and maintained as a tollway facility;
  - (c) a list of the major permits and approvals required for developing or operating improvements to the highway facility from local, state, or federal agencies and a projected schedule for obtaining the permits and approvals;
  - (d) a description of the types of public utility facilities, if any, that will be crossed by the highway facility and a statement of the plans to accommodate the crossing;
  - (e) a description of the types of public utilities used, carried, or accommodated by the highway facility and a statement of the plans to use, carry, or accommodate the public utilities;
  - (f) an estimate of the design and construction costs of the highway facility;
  - (g) a statement setting forth the private entity's general plans for constructing, operating, and maintaining the highway facility, including:
    - (i) the proposed date for development, operation, or both of the highway facility;
    - (ii) the proposed term of the lease over sovereign lakebed lands; and
    - (iii) a demonstration by the private entity that the proposal is financially viable;
  - (h) the names and addresses of the persons who may be contacted for further information concerning the highway facility application;

- (i) any other material or information that the commission requires by rules made under this section; and
  - (j) a statement whether or how the highway facility can safely accommodate recreational fishing or other recreational activities on the highway facility.
- (4) The commission is not required to review an application submitted under this section if it determines that the proposal does not meet the guidelines established under this section.
- (5) The commission shall review an application submitted under this section and approve the application if the commission determines, based upon recommendations by the department, that:
- (a) construction, operation, and maintenance of the highway facility is feasible as proposed by the private entity in the application;
  - (b) the proposed highway facility is contained anywhere within the long-range highway plan prepared by the department or by a metropolitan planning organization, including the visionary long-range highway plan;
  - (c) the construction plan for the proposed highway facility meets the engineering and design standards specified by the commission in rules made under this section;
  - (d) the proposed plan for the construction, operation, and maintenance of the highway facility is financially viable, including a determination that sufficient bonding or other financial assurances are in place to cover construction, operation, and maintenance of the facility; and
  - (e) the private entity has entered an agreement with the department authorizing the department to assure the safety of the design, construction, operation, and maintenance of the facility.
- (6) Approval by the commission under this section does not constitute approval of the lease application by the Division of Forestry, Fire, and State Lands under Section 65A-7-5.
- (7) An agreement under Subsection (5)(e):
- (a) shall provide compensation to the department to cover the costs of reviewing and inspecting the highway facility; and
  - (b) may include a time within which a notice to proceed can be given.
- (8) The department may establish a fee in accordance with Section 63J-1-504 for reviewing applications submitted under this section.

Enacted by Chapter 256, 2011 General Session