

1                                   **AMENDMENTS TO FACILITIES WITH**  
2   **REGIONAL IMPACT**  
3   2005 GENERAL SESSION  
4   STATE OF UTAH

5                                   **Sponsor: Gregory H. Hughes**

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7 **LONG TITLE**

8 **General Description:**

9                   This bill enacts provisions related to land use applications for approval of a facility with  
10 a regional impact.

11 **Highlighted Provisions:**

12                   This bill:

13                   ▶ requires counties and municipalities to consider several factors in determining  
14 whether to approve a land use application for a facility with a regional impact.

15 **Monies Appropriated in this Bill:**

16                   None

17 **Other Special Clauses:**

18                   None

19 **Utah Code Sections Affected:**

20 ENACTS:

21                   **10-9-410**, Utah Code Annotated 1953

22                   **17-27-409**, Utah Code Annotated 1953

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

25                   Section 1. Section **10-9-410** is enacted to read:

26                   **10-9-410. Considerations in deciding a land use application for a facility with a**  
27 **regional impact.**



28 (1) As used in this section:

29 (a) "Facility with a regional impact" means a ~~H~~→ **specified local entity's** ~~←H~~ use of land,  
 29a through the development of  
 30 the land or the expansion or modification of an existing use, that is likely to require an  
 31 expansion or significant modification of services or facilities provided by a specified local  
 32 entity.

33 (b) "Specified local entity" means:

34 (i) a county;

35 (ii) a municipality, other than the municipality in which the land is located;

36 (iii) an independent special district under Title 17A, Chapter 2, Independent Special  
 37 Districts;

38 (iv) a local district under Title 17B, Chapter 2, Local District;

39 (v) a school district;

40 (vi) an interlocal cooperation entity established under Title 11, Chapter 13, Interlocal  
 41 Cooperation Act; or

42 (vii) an electrical corporation, gas corporation, or telephone corporation, as those terms  
 43 are defined in Section 54-2-1.

44 (2) Each municipality that considers a specified local entity's application for approval  
 45 of a facility with a regional impact shall, in determining whether to approve the application,  
 46 consider:

47 (a) whether the specified local entity proposing the facility with a regional impact:

48 (i) included the facility with a regional impact within the general or long-range plan of  
 49 the specified local entity;

50 (ii) filed the general or long-range plan with the municipality;

51 (iii) complied with applicable notice requirements with respect to the acquisition of the  
 52 land and the proposed facility with a regional impact; and

53 (iv) has made a good faith effort to cooperate and resolve conflicts with the  
 54 municipality concerning the proposed facility with regional impact;

55 (b) whether allowing the proposed facility with a regional impact will provide a greater  
 56 benefit to the affected segment of the public than not allowing it;

57 ~~H~~→ [(c) whether there are other suitable locations for the proposed facility with a regional  
 58 impact;] ~~←H~~

59 ~~H→~~ [(d)] (c) ~~←H~~ (i) whether an entity other than the specified local entity proposing the  
59a facility with

60 a regional impact will bear an unreasonable burden or suffer an unreasonable impact, including  
61 financial burden or impact, from the proposed facility with a regional impact; and

62 (ii) the extent to which the specified local entity proposing the facility with a regional  
63 impact is willing to mitigate the burden or impact;

64 ~~H→~~ [(e)] (d) ~~←H~~ whether the proposed facility with a regional impact is consistent with the  
65 municipality's general plan; ~~H→~~ and

66 [(f)] (e) ~~←H~~ whether the municipality's general plan and land use ordinances applicable  
66a to the

67 land were consistent with the proposed facility with a regional impact at the time the specified  
68 local entity proposing the facility acquired the land ~~H→~~ [;and] .

69 [~~(g) any other factor relevant to a resolution of the application that best serves the public~~  
70 interest.] ~~←H~~

71 Section 2. Section 17-27-409 is enacted to read:

72 **17-27-409. Considerations in deciding a land use application for a facility with a**  
73 **regional impact.**

74 (1) As used in this section:

75 (a) "Facility with a regional impact" means a ~~H→~~ **specified local entity's** ~~←H~~ use of land,  
75a through the development of

76 the land or the expansion or modification of an existing use, that is likely to require an  
77 expansion or significant modification of services or facilities provided by a specified local  
78 entity.

79 (b) "Specified local entity" means:

80 (i) a county, other than the county in whose unincorporated area the land is located;

81 (ii) a municipality;

82 (iii) an independent special district under Title 17A, Chapter 2, Independent Special  
83 Districts;

84 (iv) a local district under Title 17B, Chapter 2, Local District;

85 (v) a school district;

86 (vi) an interlocal cooperation entity established under Title 11, Chapter 13, Interlocal  
87 Cooperation Act; or

88 (vii) an electrical corporation, gas corporation, or telephone corporation, as those terms  
89 are defined in Section 54-2-1.

90 (2) Each county that considers a specified local entity's application for approval of a  
91 facility with a regional impact shall, in determining whether to approve the application,  
92 consider:

93 (a) whether the specified local entity proposing the facility with a regional impact:

94 (i) included the facility with a regional impact within the general or long-range plan of  
95 the specified local entity;

96 (ii) filed the general or long-range plan with the county;

97 (iii) complied with applicable notice requirements with respect to the acquisition of the  
98 land and the proposed facility with a regional impact; and

99 (iv) has made a good faith effort to cooperate and resolve conflicts with the county  
100 concerning the proposed facility with regional impact;

101 (b) whether allowing the proposed facility with a regional impact will provide a greater  
102 benefit to the affected segment of the public than not allowing it;

103 ~~H→ [(c) whether there are other suitable locations for the proposed facility with a regional~~  
104 ~~impact;]~~

105 ~~[(d)] (c) ←H~~ (i) whether an entity other than the specified local entity proposing the facility  
105a with

106 a regional impact will bear an unreasonable burden or suffer an unreasonable impact, including  
107 financial burden or impact, from the proposed facility with a regional impact; and

108 (ii) the extent to which the specified local entity proposing the facility with a regional  
109 impact is willing to mitigate the burden or impact;

110 ~~H→ [(e)] (d) ←H~~ whether the proposed facility with a regional impact is consistent with the  
110a county's

111 general plan; H→ and

112 ~~[(f)] (e) ←H~~ whether the county's general plan and land use ordinances applicable to the land  
113 were consistent with the proposed facility with a regional impact at the time the specified local

114 entity proposing the facility acquired the land H→ [~~;~~ and] .

115 ~~[(g) any other factor relevant to a resolution of the application that best serves the public~~  
116 ~~interest.] ←H~~

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**Legislative Review Note**

as of 2-2-05 8:28 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0126**

**Amendments to Facilities with Regional Impact**

*10-Feb-05*

*1:23 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**