

LOCAL CORRIDOR PRESERVATION FUNDING

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill modifies the Transportation Code and Motor Vehicles Code by creating the Local Transportation Corridor Preservation Fund and establishing a revenue source and an approval process for preservation projects for certain county and municipal governments.

Highlighted Provisions:

This bill:

- ▶ allows a county legislative body to impose up to a \$10 local option transportation corridor preservation fee on motor vehicle registrations and renewals of registration;
- ▶ requires that revenues from the fee be:
 - deposited in the Local Transportation Corridor Preservation Fund; and
 - allocated for each county based on the total revenue received from the fee;
- ▶ defines council of governments and metropolitan planning organizations;
- ▶ allows fund monies to be used by counties that are not within a metropolitan planning organization for countywide transportation planning with certain limitations;
- ▶ provides that monies from the fee are a grant to each county provided that the state is not charged for any asset purchased with the monies;
- ▶ provides that unless otherwise provided by written agreement, the highway authority that holds the deed to the property is responsible for maintenance of the property and that transfer of ownership of property acquired shall be done with a recorded deed and a written agreement;

- ▶ provides that fund monies may be used to pay maintenance costs of properties acquired limited to a total of 5% of the purchase price of the property;
- ▶ requires the department to develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the fund monies;
- ▶ requires the department to develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements;
- ▶ requires the department to authorize the expenditure of fund monies after determining that the expenditure is being made in accordance with certain provisions from applications by a highway authority and endorsed by the council of governments;
- ▶ allows a council of governments to establish prioritization and application procedures for use of the monies allocated to each county;
- ▶ requires all fund monies to be prioritized by each highway authority and council of governments based on certain provisions;
- ▶ prohibits a highway authority from applying for fund monies unless the highway authority has:
 - a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements unless the highway authority has a written agreement with the department for acquisition of property; and
 - an access management policy or ordinance in effect that meets certain requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2006.

Utah Code Sections Affected:

AMENDS:

72-2-117, as last amended by Chapter 60, Laws of Utah 2001

ENACTS:

41-1a-1222, Utah Code Annotated 1953

72-2-117.5, Utah Code Annotated 1953

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

Section 1. Section **41-1a-1222** is enacted to read:

41-1a-1222. Local option transportation corridor preservation fee -- Exemptions --

Deposit -- County ordinance -- Notice.

(1) (a) (i) A county legislative body may impose a local option transportation corridor preservation fee of up to \$10 on each motor vehicle registration within the county.

(ii) A fee imposed under Subsection (1)(a)(i) shall be set in whole dollar increments.

(b) If imposed under Subsection (1)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option transportation corridor preservation fee established by the county legislative body.

(c) A motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3) is also exempt from the local option transportation corridor preservation fee required by this section.

(d) A commercial motor vehicle with an apportioned registration under Section 41-1a-301 is exempt from the local option transportation corridor preservation fee required by this section.

(2) The revenue generated under this section shall be:

(a) deposited in the Local Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(b) credited to the county from which it is generated; and

(c) used and distributed in accordance with Section 72-2-117.5.

(3) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection (4).

(4) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection (4)(b) from the county prior to April 1.

(b) The notice described in Subsection (4)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this part;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 2. Section **72-2-117** is amended to read:

72-2-117. Transportation Corridor Preservation Revolving Loan Fund --

Distribution -- Repayment -- Rulemaking.

(1) There is created the Transportation Corridor Preservation Revolving Loan Fund within the Transportation Fund.

(2) The fund shall be funded from the following sources:

(a) motor vehicle rental tax imposed under Section 59-12-1201;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all monies collected for repayments and interest on fund monies;

(f) all monies collected from rents and sales of real property acquired with fund monies;

and

(g) proceeds from ~~general obligation bonds, revenue bonds, or other obligations [issued in accordance with Title 63, Chapter 9a, State Building Ownership, and]~~ as authorized by Title 63B, Bonds.

(3) All monies appropriated to the Transportation Corridor Preservation Revolving Loan Fund are nonlapsing.

(4) (a) The commission shall authorize the expenditure of fund monies to allow the department to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

- (i) monies available in the fund;
- (ii) rules made under Subsection (7); and
- (iii) Subsection (9).

(b) Fund monies may be used to pay interest on debts incurred in accordance with this section.

(5) Administrative costs of the Transportation Corridor Preservation Revolving Loan Fund shall be paid from the fund.

(6) The department:

(a) may apply to the commission under this section for monies from the Transportation Corridor Preservation Revolving Loan Fund for a specified transportation corridor project, including for county and municipal projects; and

(b) shall repay the fund monies authorized for the project to the fund as required under Subsection (7).

(7) The commission shall:

(a) administer the Transportation Corridor Preservation Revolving Loan Fund to:

- (i) preserve transportation corridors[;];
- (ii) promote long-term statewide transportation planning[;];
- (iii) save on acquisition costs[;]; and
- (iv) promote the best interests of the state in a manner which minimizes impact on prime agricultural land;

(b) prioritize fund monies based on considerations, including:

- (i) areas with rapidly expanding population;
- (ii) the willingness of local governments to complete studies and impact statements that meet department standards;
- (iii) the preservation of corridors by the use of local planning and zoning processes;

- (iv) the availability of other public and private matching funds for a project; and
- (v) the cost-effectiveness of the preservation projects; ~~and]~~

(c) designate high priority corridor preservation projects in cooperation with a metropolitan planning organization;

(d) administer the program for the purposes provided in this section;

(e) prioritize fund monies in accordance with this section; and

~~(e)]~~ (f) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, establishing:

(i) the procedures for the awarding of fund monies;

(ii) the procedures for the department to apply for transportation corridor preservation monies for projects; and

(iii) repayment conditions of the monies to the fund from the specified project funds.

(8) (a) The proceeds from ~~the revenue]~~ any bonds or other obligations ~~issued on]~~ secured by revenues of the Transportation Corridor Preservation Revolving Loan Fund shall be used for:

(i) the acquisition of real property in hardship cases; and

(ii) any of the purposes authorized for funds in the Transportation Corridor Preservation Revolving Loan Fund under this section.

(b) The commission shall pledge the necessary part of the revenues of the Transportation Corridor Preservation Revolving Loan Fund to the payment of principal of and interest on the ~~revenue]~~ bonds or other obligations.

(9) (a) The department may not apply for monies under this section ~~for a]~~ unless the highway authority ~~that does not have]~~ has an access management policy or ordinance in effect that meets the requirements under Subsection (9)(b).

(b) The access management policy or ordinance shall:

(i) be for the purpose of balancing the need for reasonable access to land uses with the need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity, and speed; and

(ii) include provisions:

- (A) limiting the number of conflict points at driveway locations;
- (B) separating conflict areas;
- (C) reducing the interference of through traffic;
- (D) spacing at-grade signalized intersections; and
- (E) providing for adequate on-site circulation and storage.

(c) The department shall develop a model access management policy or ordinance that meets the requirements of this Subsection (9) for the benefit of a county or municipality under this section.

(10) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules establishing a corridor preservation advisory council.

(b) The corridor preservation advisory council shall:

(i) assist with and help coordinate the corridor preservation efforts of the department and local governments;

(ii) provide recommendations and priorities concerning corridor preservation and the use of fund monies to the department and to the commission; and

(iii) include members designated by each metropolitan planning organization in the state to represent local governments that are involved with corridor preservation through official maps and planning.

Section 3. Section **72-2-117.5** is enacted to read:

72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution --

Rulemaking.

(1) As used in this section:

(a) "council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county; and

(b) "metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Transportation Corridor Preservation Fund within the

Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all monies collected from rents and sales of real property acquired with fund monies;

and

(f) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds.

(4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund are nonlapsing.

(b) The Tax Commission shall provide the department with sufficient data for the department to allocate the revenues provided under Subsection (3)(a) to each county imposing a local option transportation corridor preservation fee under Section 41-1a-1222.

(c) The monies allocated under Subsection (4)(b):

(i) shall be used for the purposes provided in this section for each county; and

(ii) are allocated to each county as provided in this section:

(A) with the condition that the state will not be charged for any asset purchased with the monies allocated under Subsection (4)(b); and

(B) are considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(d) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) The department shall authorize the expenditure of fund monies to allow a highway authority to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

(i) monies available in the fund to each county under Subsection (4)(b); and

(ii) the provisions of this section.

(b) Fund monies may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund monies may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund monies allocated under Subsection (4)(b) may be used by a county highway authority for countywide transportation planning if:

(i) the county is not included in a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund monies as provided under this section.

(e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve transportation corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund may not be used for a transportation corridor that is primarily a recreational trail as defined under Section 63-11a-101.

(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund monies including priority use on designated high priority corridor preservation projects.

(ii) The department shall develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund monies after determining that the expenditure is being made in accordance with this section from applications that are:

- (i) made by a highway authority; and
- (ii) endorsed by the council of governments.

(7) (a) (i) A council of governments may establish a council of governments endorsement process which includes prioritization and application procedures for use of the monies allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by the:

(A) metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning

organization.

(b) All fund monies shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(viii) whether the transportation corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not apply for monies under this section unless the

highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(9).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

Section 4. **Effective date.**

This bill takes effect on January 1, 2006.