

1 **AUTHORIZING TEMPORARY ROAD CLOSURES**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael E. Noel**

5 Senate Sponsor: Darin G. Peterson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Transportation Code by amending provisions related to the
10 temporary closure of certain highways.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ authorizes a highway authority to temporarily close a class B or D road or an R.S.
14 2477 right-of-way if:
- 15 • an alternate route to the R.S. 2477 right-of-way is provided and agreed on by
 - 16 certain parties; or
 - 17 • the highway authority determines that correction or mitigation is necessary on a
 - 18 class B or D road;
 - 19 ▶ provides that a temporary closure is not an abandonment;
 - 20 ▶ provides that an R.S. 2477 right-of-way shall be reopened if the alternate route is
 - 21 closed for any reason;
 - 22 ▶ provides that a temporary closure for mitigation or correction shall be authorized
 - 23 annually and may not exceed two years or the time it takes to complete the
 - 24 mitigation or correction, whichever is less;
 - 25 ▶ provides notice and hearing requirements for a temporary closure;
 - 26 ▶ provides that a highway authority shall pass an ordinance authorizing the temporary
 - 27 closure;



- 28 ▶ provides that certain easements and rights-of-way may not be impaired by a
- 29 temporary closure; and
- 30 ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **72-5-105**, as last amended by Chapter 291, Laws of Utah 2002



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

40 Section 1. Section **72-5-105** is amended to read:

41 **72-5-105. Highways, streets, or roads once established continue until abandoned.**

42 (1) All public highways, streets, or roads once established shall continue to be
43 highways, streets, or roads until abandoned or vacated by order of [~~the~~] a highway [~~authorities~~]
44 authority having jurisdiction or by other competent authority.

45 (2) (a) For purposes of assessment, upon the recordation of an order executed by the
46 proper authority with the county recorder's office, title to the vacated or abandoned highway,
47 street, or road shall vest to the adjoining record owners, with 1/2 of the width of the highway,
48 street, or road assessed to each of the adjoining owners.

49 (b) Provided, however, that should a description of an owner of record extend into the
50 vacated or abandoned highway, street, or road that portion of the vacated or abandoned
51 highway, street, or road shall vest in the record owner, with the remainder of the highway,
52 street, or road vested as otherwise provided in this Subsection (2).

53 (3) (a) In accordance with this section, a state or local highway authority may
54 temporarily close a class B or D road, an R.S. 2477 right-of-way, or a portion of a class B or D
55 road or R.S. 2477 right-of-way.

56 (b) A temporary closure authorized under this section is not an abandonment.

57 (c) A temporary closure under Subsection (3)(a) may be authorized only under the
58 following circumstances:

- 59 (i) when a federal authority, or other person, provides an alternate route to an R.S.
60 2477 right-of-way or portion of an R.S. 2477 right-of-way that is:
- 61 (A) accepted by the highway authority; and
62 (B) formalized by:
63 (I) a federal permit; or
64 (II) a written agreement between the federal authority or other person and the highway
65 authority; or
- 66 (ii) when a state or local highway authority determines that correction or mitigation of
67 injury to private or public land resources is necessary on or near a class B or D road or portion
68 of a class B or D road.
- 69 (d) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S.
70 2477 right-of-way temporarily closed under this section if the alternate route is closed for any
71 reason.
- 72 (e) A temporary closure authorized under Subsection (3)(c)(ii) shall:
- 73 (i) be authorized annually; and
74 (ii) not exceed two years or the time it takes to complete the correction or mitigation,
75 whichever is less.
- 76 (4) Prior to authorizing a temporary closure under Subsection (3), a highway authority
77 shall:
- 78 (a) hold a hearing on the proposed temporary closure;
79 (b) provide notice of the hearing by:
80 (i) mailing a notice to the Department of Transportation and all owners of property
81 abutting the highway; and
82 (ii) (A) publishing the notice in a newspaper of general circulation in the county at least
83 once a week for four consecutive weeks prior to the hearing; or
84 (B) posting the notice in three public places for at least four consecutive weeks prior to
85 the hearing; and
86 (c) pass an ordinance authorizing the temporary closure.
- 87 (5) The right-of-way and easements, if any, of a property owner and the franchise rights
88 of any public utility may not be impaired by a temporary closure authorized under this section.

Legislative Review Note

as of 1-4-06 1:50 PM

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