

UTAH STATE RAILROAD MUSEUM

AUTHORITY

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the "Utah State Railroad Museum Authority."

Highlighted Provisions:

This bill:

▶ creates the "Utah State Railroad Museum Authority" and establishes its membership and procedures;

▶ provides for the powers and duties of the executive director and the authority;

▶ provides that the authority's financial obligations are not obligations of the state;

▶ provides that the authority is responsible for the maintenance of its properties;

▶ exempts the authority from the Funds Consolidation Act, Budgetary Procedures Act, Utah Procurement Code, Utah State Personnel Management Act, and the Department of Administrative Services; and

▶ exempts the authority and its operators from state sales and use tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 28 **9-3-501**, Utah Code Annotated 1953
- 29 **9-3-502**, Utah Code Annotated 1953
- 30 **9-3-503**, Utah Code Annotated 1953
- 31 **9-3-504**, Utah Code Annotated 1953
- 32 **9-3-505**, Utah Code Annotated 1953
- 33 **9-3-506**, Utah Code Annotated 1953
- 34 **9-3-507**, Utah Code Annotated 1953
- 35 **9-3-508**, Utah Code Annotated 1953
- 36 **9-3-509**, Utah Code Annotated 1953
- 37 **9-3-510**, Utah Code Annotated 1953
- 38 **9-3-511**, Utah Code Annotated 1953

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

41 Section 1. Section **9-3-501** is enacted to read:

42 **Part 5. Utah State Railroad Museum Authority**

43 **9-3-501. Title.**

44 This part is known as the "Utah State Railroad Museum Authority."

45 Section 2. Section **9-3-502** is enacted to read:

46 **9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**
 47 **expenses.**

48 (1) There is created an independent state agency and a body politic and corporate
 49 known as the "Utah State Railroad Museum Authority," hereafter referred to in this part as "the
 50 authority."

51 (2) The authority is composed of 11 members as follows:

52 (a) one member of the county legislative body of Weber County appointed by that
 53 legislative body;

54 (b) one member of the county legislative body of Box Elder County appointed by that
 55 legislative body;

56 (c) the executive director of the Utah Transit Authority or the director's designee;

57 (d) the executive director of the Department of Transportation or the director's
 58 designee; and

- 59 (e) the governor shall appoint seven public members, as follows:
- 60 (i) two persons representing the tourism industry, one each from Weber and Box Elder
- 61 Counties;
- 62 (ii) one person representing the public at large; and
- 63 (iii) four persons representing railroad historic and heritage preservation organizations
- 64 active in Weber and Box Elder Counties, as follows:
- 65 (A) one person representing the Railroad and Locomotive Historical Society Golden
- 66 Spike Chapter;
- 67 (B) one person representing the Union Station Foundation;
- 68 (C) one person representing the Golden Spike Heritage Foundation; and
- 69 (D) one person representing the Golden Spike Historic Site.
- 70 (3) All members shall be residents of the state.
- 71 (4) (a) Except as required by Subsection (4)(b), the governor shall appoint the seven
- 72 public members for four-year terms beginning July 1.
- 73 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
- 74 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
- 75 authority members appointed under Subsection (2)(e) are staggered so that approximately half
- 76 of the seven public members are appointed every two years.
- 77 (5) Any of the seven public members may be removed from office by the governor or
- 78 for cause by an affirmative vote of six members of the authority.
- 79 (6) When a vacancy occurs in the public membership for any reason, the governor shall
- 80 appoint a replacement for the unexpired term.
- 81 (7) Each public member shall hold office for the term of the member's appointment and
- 82 until a successor has been appointed and qualified.
- 83 (8) A public member is eligible for reappointment, but may not serve more than two
- 84 full consecutive terms.
- 85 (9) The governor shall appoint the chair of the authority from among its members.
- 86 (10) (a) The members shall elect from among their number a vice chair and other
- 87 officers as they may determine.
- 88 (b) The officers serve as the executive committee for the authority.
- 89 (11) The powers of the authority are vested in its members.

90 (12) (a) Six members constitute a quorum for transaction of authority business.

91 (b) An affirmative vote of at least six members is necessary for an action to be taken
92 by the authority.

93 (13) (a) A member who is not a government employee receives no compensation or
94 benefits for the member's services, but may receive per diem and expenses incurred in the
95 performance of the member's official duties at rates established by the Division of Finance
96 under Sections 63A-3-106 and 63A-3-107.

97 (b) A state government officer or employee member who does not receive salary, per
98 diem, or expenses from the member's agency for the member's service may receive per diem
99 and expenses incurred in the performance of official duties from the authority at rates
100 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

101 (c) A local government member who does not receive salary, per diem, or expenses for
102 the member's service from the entity that the member represents may receive per diem and
103 expenses incurred in the performance of the member's official duties at rates established by the
104 Division of Finance under Sections 63A-3-106 and 63A-3-107.

105 (d) A member may decline to receive per diem and expenses for the member's services.

106 Section 3. Section **9-3-503** is enacted to read:

107 **9-3-503. Executive director -- Powers and duties.**

108 (1) (a) The members of the authority shall appoint an executive director who is an
109 employee of the authority, but who may not be a member of the authority.

110 (b) The executive director serves at the pleasure of the members and receives
111 compensation as set by the members and approved by the governor.

112 (2) The executive director shall:

113 (a) administer, manage, and direct the affairs and activities of the authority in
114 accordance with the policies, control, and direction of the members of the authority;

115 (b) approve all accounts for allowable expenses of the authority or of any of its
116 employees and expenses incidental to the operation of the authority;

117 (c) attend meetings of the authority;

118 (d) keep a record of the proceedings of the authority;

119 (e) maintain and be the custodian of all books, documents, and papers filed with the
120 authority;

121 (f) document and maintain records concerning ownership of all assets owned or under
122 the control of the authority; and

123 (g) perform other duties as directed by the members of the authority in carrying out the
124 purposes of this part.

125 Section 4. Section **9-3-504** is enacted to read:

126 **9-3-504. Member or employee -- Disclosure of interest.**

127 (1) A member or employee of the authority who has, will have, or later acquires an
128 interest, direct or indirect, in a transaction with the authority shall immediately disclose the
129 nature and extent of that interest in writing to the authority as soon as the individual has
130 knowledge of the actual or prospective interest.

131 (2) The disclosure shall be entered upon the minutes of the authority.

132 (3) After making the disclosure, the member or employee may participate in any action
133 by the authority authorizing the transaction.

134 Section 5. Section **9-3-505** is enacted to read:

135 **9-3-505. Officer or employee -- No forfeiture of office or employment.**

136 Notwithstanding any other provision of law, an officer or employee of this state does
137 not forfeit the office or employment with the state by reason of acceptance of membership on
138 the authority or service on it.

139 Section 6. Section **9-3-506** is enacted to read:

140 **9-3-506. Authority -- Powers.**

141 (1) The authority shall facilitate:

142 (a) or operate and maintain a scenic and historic railroad in and around Weber and Box
143 Elder Counties;

144 (b) or operate and maintain one or more railroad history museums in and around Weber
145 and Box Elder Counties;

146 (c) the restoration, preservation, and public display of railroad artifacts and heritage in
147 and around Weber and Box Elder Counties; and

148 (d) the restoration, preservation, and operation of historically significant railroad
149 related properties in and around Weber and Box Elder Counties for public benefit.

150 (2) The authority has perpetual succession as a body politic and corporate and may:

151 (a) adopt, amend, and repeal policies and procedures for the regulation of its affairs and

152 the conduct of its business;

153 (b) sue and be sued in its own name;

154 (c) maintain an office at a place or places it designates within the state;

155 (d) adopt, amend, and repeal bylaws and rules, consistent with this part, to carry into

156 effect the powers and purposes of the authority and the conduct of its business;

157 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

158 (f) employ experts and other professionals it considers necessary;

159 (g) employ and retain independent legal counsel;

160 (h) make and execute contracts and all other instruments necessary or convenient for
161 the performance of its duties under this part as described in Subsection (1);

162 (i) procure insurance for liability and against any loss in connection with its property
163 and other assets in amounts and from insurers it considers desirable;

164 (j) receive appropriations from the Legislature and receive other public moneys and
165 accept aid or contributions from any source of money, property, labor, or other things of value
166 to be held, used, and applied to carry out the purposes of this part, subject to the conditions
167 upon which the grants and contributions are made, including gifts or grants from a department,
168 agency, or instrumentality of the United States or of this state for any purpose consistent with
169 this part;

170 (k) enter into agreements with a department, agency, or instrumentality of the United
171 States or this state for the purpose of providing for the operation and maintenance of a scenic
172 railway in and around Weber and Box Elder Counties; and

173 (l) do any act necessary or convenient to the exercise of the powers granted to the
174 authority by this part.

175 (3) (a) All monies received by the authority under Subsection (2)(j) and from any other
176 source are for the exclusive use of the authority in the performance and exercise of its duties
177 under this part as described in Subsection (1).

178 (b) Monies received by the authority may not be used for any other purpose or by any
179 other entity.

180 Section 7. Section **9-3-507** is enacted to read:

181 **9-3-507. Notes, bonds, other obligation -- Not debt liability -- Expenses payable**
182 **from funds provided -- Agency without authority to incur liability on behalf of state.**

- 183 (1) (a) An obligation or liability of the authority does not constitute:
184 (i) a debt or liability of the state or of any of its political subdivisions; or
185 (ii) the loaning of credit of the state or of any of its political subdivisions.
186 (b) An obligation or liability of the authority is payable only from funds of the
187 authority.
188 (2) An obligation of the authority shall contain a statement to the effect:
189 (a) that the authority is obligated to pay the obligation solely from the revenues or other
190 funds of the authority;
191 (b) that neither the state nor its political subdivisions are obligated to pay it; and
192 (c) that neither the faith and credit nor the taxing power of the state or any of its
193 political subdivisions is pledged to the payment of it.
194 (3) (a) Expenses incurred in carrying out this part are payable solely from funds of the
195 authority provided under this part.
196 (b) Nothing in this part authorizes the authority to incur indebtedness or liability on
197 behalf of or payable by the state or any of its political subdivisions.

198 Section 8. Section **9-3-508** is enacted to read:

199 **9-3-508. Relation to certain acts.**

200 (1) The authority is exempt from:

201 (a) Title 51, Chapter 5, Funds Consolidation Act;

202 (b) Title 63A, Chapter 1, Department of Administrative Services;

203 (c) Title 63G, Chapter 6, Utah Procurement Code;

204 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

205 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

206 (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3,
207 Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

208 Section 9. Section **9-3-509** is enacted to read:

209 **9-3-509. Duty to maintain rails and operating equipment.**

210 (1) The authority shall maintain the rails, bed, right-of-way, and related property owned
211 by the authority upon which the authority's train operates in compliance with state and federal
212 statutes, rules, and regulations.

213 (2) The authority shall require any party from whom it leases, or otherwise utilizes

214 rails, bed, right-of-way, motive power, rolling stock, and related property that the property be
215 delivered and maintained in compliance with state and federal statutes, rules, and regulations.

216 Section 10. Section **9-3-510** is enacted to read:

217 **9-3-510. Lease of rails or equipment from Department of Transportation and**
218 **Division of Parks and Recreation.**

219 The Department of Transportation and the Division of Parks and Recreation may jointly
220 lease the rails, bed, right-of-way, and related property for the operation of a scenic and historic
221 railroad in and around Weber and Box Elder Counties, for not more than \$1 per year to the
222 authority.

223 Section 11. Section **9-3-511** is enacted to read:

224 **9-3-511. Sales tax exemption.**

225 The authority and its operators are exempt from sales and use tax imposed under Title
226 59, Chapter 12, Sales and Use Tax Act, in carrying out their duties and exercising their powers
227 under this part.

Legislative Review Note
as of 1-12-09 10:57 AM

Office of Legislative Research and General Counsel

H.B. 311 - Utah State Railroad Museum Authority

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill could reduce the General Fund by \$46,500 annually.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$46,500)	(\$46,500)
Total	\$0	\$0	\$0	\$0	(\$46,500)	(\$46,500)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals. Businesses providing services to the newly established authority would receive a potential sales tax benefit. Local governments could see reduction in sales tax revenue of \$15,000 annually.