

**Representative Ben C. Ferry** proposes the following substitute bill:

**LAND USE AUTHORITY NOTIFICATION OF**

**CANAL DEVELOPMENT**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ben C. Ferry**

Senate Sponsor: Dennis E. Stowell

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**LONG TITLE**

**General Description:**

This bill requires a municipal or a county land use authority to notify a canal company or canal operator of a land use application to develop within 100 feet of a canal.

**Highlighted Provisions:**

This bill:

- ▶ amends notification requirements;
- ▶ requires a municipal or a county land use authority to notify a canal company or canal operator of a land use application to develop within 100 feet of a canal; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-509**, as last amended by Laws of Utah 2009, Chapters 181 and 225

**17-27a-508**, as last amended by Laws of Utah 2009, Chapters 181 and 225



26 ENACTS:

27 **10-9a-211**, Utah Code Annotated 1953

28 **17-27a-211**, Utah Code Annotated 1953

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

31 Section 1. Section **10-9a-211** is enacted to read:

32 **10-9a-211. Canal owner or operator -- Notice to municipality.**

33 (1) For purposes of Subsection 10-9a-509(1)(b)(iv), a canal company or a canal  
34 operator shall provide on or before July 1, 2010, any municipality in which the canal company  
35 or canal operator owns or operates a canal:

36 (a) a current mailing address and phone number;

37 (b) a contact name; and

38 (c) a general description of the location of each canal owned or operated by the canal  
39 owner or canal operator.

40 (2) If the information described in Subsection (1) changes after a canal company or a  
41 canal operator has provided the information to the municipality, the canal company or canal  
42 operator shall provide the correct information within 30 days of the day on which the  
43 information was changed.

44 Section 2. Section **10-9a-509** is amended to read:

45 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**  
46 **-- Application relating to land in a high priority transportation corridor -- Municipality's**  
47 **requirements and limitations -- Vesting upon submission of development plan and**  
48 **schedule.**

49 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a  
50 land use application if the application conforms to the requirements of the municipality's land  
51 use maps, zoning map, and applicable land use ordinance in effect when a complete application  
52 is submitted and all application fees have been paid, unless:

53 (i) the land use authority, on the record, finds that a compelling, countervailing public  
54 interest would be jeopardized by approving the application; or

55 (ii) in the manner provided by local ordinance and before the application is submitted,  
56 the municipality has formally initiated proceedings to amend its ordinances in a manner that

57 would prohibit approval of the application as submitted.

58 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval  
59 of a land use application until the requirements of this Subsection (1)(b) have been met if the  
60 land use application relates to land located within the boundaries of a high priority  
61 transportation corridor designated in accordance with Section 72-5-403.

62 (ii) (A) A municipality shall notify the executive director of the Department of  
63 Transportation of any land use applications that relate to land located within the boundaries of  
64 a high priority transportation corridor.

65 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by  
66 certified or registered mail to the executive director of the Department of Transportation.

67 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land  
68 use application that relates to land located within the boundaries of a high priority  
69 transportation corridor until:

70 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the  
71 Department of Transportation if the land use application is for a building permit; or

72 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the  
73 Department of Transportation if the land use application is for any land use other than a  
74 building permit.

75 (iv) (A) If an application is an application for a subdivision approval, including any  
76 land ~~§~~→, subject to Subsection (1)(b)(iv)(C), ←~~§~~ located within 100 feet of the center line of a  
77a canal, the land use authority shall:

77 (I) within 30 days after the day on which the application is filed, notify the canal  
78 company or canal operator responsible for the canal, if the canal company or canal operator has  
79 provided information under Section 10-9a-211; and

80 (II) wait at least 10 days after the day on which the land use authority notifies a canal  
81 company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the  
82 subdivision application described in Subsection (1)(b)(iv)(A).

83 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by  
84 certified or registered mail to the canal company or canal operator contact described in Section  
85 10-9a-211.

85a **§→ (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:**

85b **(I) provided by a canal company or canal operator to the land use authority; and**

85c **(II) (Aa) determined by use of mapping-grade global positioning satellite units;**

85d **or**

85e **(Bb) digitized from the most recent areal photo available to the canal**  
86 **company or canal operator. ←~~§~~**

87 (c) (i) A land use application is exempt from the requirements of [Subsection]  
Subsections (1)(b)(i) and (ii) if:

88 (A) the land use application relates to land that was the subject of a previous land use  
89 application; and

90 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied  
91 with the requirements of ~~[Subsection]~~ Subsections (1)(b)(i) and (ii).

92 (ii) A municipality may approve a land use application without making the required  
93 notifications under Subsection (1)(b)(ii)(A) if:

94 (A) the land use application relates to land that was the subject of a previous land use  
95 application; and

96 (B) the previous land use application described under Subsection (1)(c)(ii)(A)  
97 complied with the requirements of ~~[Subsection]~~ Subsections (1)(b)(i) and (ii).

98 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a  
99 land use application, the municipality may not withhold approval of the land use application for  
100 which the applicant is otherwise entitled under Subsection (1)(a).

101 (e) The municipality shall process an application without regard to proceedings  
102 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii) if:

103 (i) 180 days have passed since the proceedings were initiated; and

104 (ii) the proceedings have not resulted in an enactment that prohibits approval of the  
105 application as submitted.

106 (f) An application for a land use approval is considered submitted and complete when  
107 the application is provided in a form that complies with the requirements of applicable  
108 ordinances and all applicable fees have been paid.

109 (g) The continuing validity of an approval of a land use application is conditioned upon  
110 the applicant proceeding after approval to implement the approval with reasonable diligence.

111 (h) A municipality may not impose on a holder of an issued land use permit or  
112 approved subdivision plat a requirement that is not expressed:

113 (i) in the land use permit or subdivision plat, documents on which the land use permit  
114 or subdivision plat is based, or the written record evidencing approval of the land use permit or  
115 subdivision plat; or

116 (ii) in this chapter or the municipality's ordinances.

117 (i) A municipality may not withhold issuance of a certificate of occupancy or  
118 acceptance of subdivision improvements because of an applicant's failure to comply with a

119 requirement that is not expressed:

120 (i) in the building permit or subdivision plat, documents on which the building permit  
121 or subdivision plat is based, or the written record evidencing approval of the land use permit or  
122 subdivision plat; or

123 (ii) in this chapter or the municipality's ordinances.

124 (2) A municipality is bound by the terms and standards of applicable land use  
125 ordinances and shall comply with mandatory provisions of those ordinances.

126 (3) A municipality may not, as a condition of land use application approval, require a  
127 person filing a land use application to obtain documentation regarding a school district's  
128 willingness, capacity, or ability to serve the development proposed in the land use application.

129 (4) Upon a specified public agency's submission of a development plan and schedule as  
130 required in Subsection 10-9a-305(9) that complies with the requirements of that subsection, the  
131 specified public agency vests in the municipality's applicable land use maps, zoning map,  
132 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect  
133 on the date of submission.

134 Section 3. Section **17-27a-211** is enacted to read:

135 **17-27a-211. Canal owner or operator -- Notice to county.**

136 (1) For purposes of Subsection 17-27a-508(1)(b)(iv), a canal company or a canal  
137 operator shall provide on or before July 1, 2010, any county in which the canal company or  
138 canal operator owns or operates a canal:

139 (a) a current mailing address and phone number;

140 (b) a contact name; and

141 (c) a general description of the location of each canal owned or operated by the canal  
142 owner or canal operator.

143 (2) If the information described in Subsection (1) changes after a canal company or a  
144 canal operator has provided the information to the county, the canal company or canal operator  
145 shall provide the correct information within 30 days of the day on which the information was  
146 changed.

147 Section 4. Section **17-27a-508** is amended to read:

148 **17-27a-508. Applicant's entitlement to land use application approval --**

149 **Exceptions -- Application relating to land in a high priority transportation corridor --**

150 **County's requirements and limitations -- Vesting upon submission of development plan**  
 151 **and schedule.**

152 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a  
 153 land use application if the application conforms to the requirements of the county's land use  
 154 maps, zoning map, and applicable land use ordinance in effect when a complete application is  
 155 submitted and all application fees have been paid, unless:

156 (i) the land use authority, on the record, finds that a compelling, countervailing public  
 157 interest would be jeopardized by approving the application; or

158 (ii) in the manner provided by local ordinance and before the application is submitted,  
 159 the county has formally initiated proceedings to amend its ordinances in a manner that would  
 160 prohibit approval of the application as submitted.

161 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval  
 162 of a land use application until the requirements of this ~~Subsection~~ Subsections (1)(b)(i) and  
 163 (ii) have been met if the land use application relates to land located within the boundaries of a  
 164 high priority transportation corridor designated in accordance with Section 72-5-403.

165 (ii) (A) A county shall notify the executive director of the Department of  
 166 Transportation of any land use applications that relate to land located within the boundaries of  
 167 a high priority transportation corridor.

168 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by  
 169 certified or registered mail to the executive director of the Department of Transportation.

170 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use  
 171 application that relates to land located within the boundaries of a high priority transportation  
 172 corridor until:

173 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the  
 174 Department of Transportation if the land use application is for a building permit; or

175 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the  
 176 Department of Transportation if the land use application is for any land use other than a  
 177 building permit.

178 (iv) (A) If an application is an application for a subdivision approval, including any  
 179 land ~~§~~→, subject to Subsection (1)(b)(iv)(C), ←~~§~~ located within 100 feet of the center line of a  
 179a canal, the land use authority shall:

180 (I) within 30 days after the day on which the application is filed, notify the canal

181 company or canal operator responsible for the canal, if the canal company or canal owner has  
182 provided information under Section 17-2a-211; and

183 (II) wait at least 10 days after the day on which the land use authority notifies a canal  
184 company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the  
185 subdivision application described in Subsection (1)(b)(iv)(A).

186 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by  
187 certified or registered mail to the canal company or canal operator contact described in Section  
188 17-27a-211.

188a **§→ (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:**

188b **(I) provided by a canal company or canal operator to the land use authority; and**

188c **(II) (Aa) determined by use of mapping-grade global positioning satellite units;**

188d **or**

188e **(Bb) digitized from the most recent areal photo available to the canal**  
188f **company or canal operator.** ←§

189 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i)  
190 if:

191 (A) the land use application relates to land that was the subject of a previous land use  
192 application; and

193 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied  
194 with the requirements of [~~Subsection~~] Subsections (1)(b)(i) and (ii).

195 (ii) A county may approve a land use application without making the required  
196 notifications under [~~Subsection~~] Subsections (1)(b)(i) and (ii) if:

197 (A) the land use application relates to land that was the subject of a previous land use  
198 application; and

199 (B) the previous land use application described under Subsection (1)(c)(ii)(A)  
200 complied with the requirements of [~~Subsection~~] Subsections (1)(b)(i) and (ii).

201 (d) After a county has complied with the requirements of Subsection (1)(b) for a land  
202 use application, the county may not withhold approval of the land use application for which the  
203 applicant is otherwise entitled under Subsection (1)(a).

204 (e) The county shall process an application without regard to proceedings initiated to  
205 amend the county's ordinances as provided in Subsection (1)(a)(ii) if:

206 (i) 180 days have passed since the proceedings were initiated; and

207 (ii) the proceedings have not resulted in an enactment that prohibits approval of the  
208 application as submitted.

209 (f) An application for a land use approval is considered submitted and complete when  
210 the application is provided in a form that complies with the requirements of applicable  
211 ordinances and all applicable fees have been paid.

212 (g) The continuing validity of an approval of a land use application is conditioned upon  
213 the applicant proceeding after approval to implement the approval with reasonable diligence.

214 (h) A county may not impose on a holder of an issued land use permit or approved  
215 subdivision plat a requirement that is not expressed:

216 (i) in the land use permit or subdivision plat documents on which the land use permit  
217 or subdivision plat is based, or the written record evidencing approval of the land use permit or  
218 subdivision plat; or

219 (ii) in this chapter or the county's ordinances.

220 (i) A county may not withhold issuance of a certificate of occupancy or acceptance of  
221 subdivision improvements because of an applicant's failure to comply with a requirement that  
222 is not expressed:

223 (i) in the building permit or subdivision plat, documents on which the building permit  
224 or subdivision plat is based, or the written record evidencing approval of the building permit or  
225 subdivision plat; or

226 (ii) in this chapter or the county's ordinances.

227 (2) A county is bound by the terms and standards of applicable land use ordinances and  
228 shall comply with mandatory provisions of those ordinances.

229 (3) A county may not, as a condition of land use application approval, require a person  
230 filing a land use application to obtain documentation regarding a school district's willingness,  
231 capacity, or ability to serve the development proposed in the land use application.

232 (4) Upon a specified public agency's submission of a development plan and schedule as  
233 required in Subsection 17-27a-305(9) that complies with the requirements of that subsection,  
234 the specified public agency vests in the county's applicable land use maps, zoning map, hookup  
235 fees, impact fees, other applicable development fees, and land use ordinances in effect on the  
236 date of submission.



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**Fiscal Note**

**H.B. 298 1st Sub. (Buff) - Land Use Authority Notification of Canal  
Development**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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