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HEBER VALLEY HISTORIC RAILROAD

AUTHORITY

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill re-enacts the Heber Valley Historic Railroad Authority.

Highlighted Provisions:

This bill:

- ▶ creates an independent state entity and its membership;
- ▶ creates an executive director;
- ▶ requires disclosure of interests;
- ▶ creates the authority and powers of the railroad authority;
- ▶ provides for obligations of the authority; and
- ▶ creates a duty to maintain the rails.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

9-3-501, Utah Code Annotated 1953

9-3-502, Utah Code Annotated 1953

9-3-503, Utah Code Annotated 1953



- 28 9-3-504, Utah Code Annotated 1953
- 29 9-3-505, Utah Code Annotated 1953
- 30 9-3-506, Utah Code Annotated 1953
- 31 9-3-507, Utah Code Annotated 1953
- 32 9-3-508, Utah Code Annotated 1953
- 33 9-3-509, Utah Code Annotated 1953
- 34 9-3-510, Utah Code Annotated 1953
- 35 9-3-511, Utah Code Annotated 1953

36

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

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

39 **Part 5. Heber Valley Historic Railroad Authority**

40 **9-3-501. Title.**

41 This part is known as the "Heber Valley Historic Railroad Authority."

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

43 **9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**
44 **expenses.**

45 (1) There is created an independent state agency and a body politic and corporate
46 known as the "Heber Valley Historic Railroad Authority."

47 (2) The authority shall be composed of seven members as follows:

48 (a) one member of the county legislative body of Wasatch County;

49 (b) the mayor of Heber City;

50 (c) the mayor of Midway;

51 (d) the executive director of the Department of Transportation or the executive
52 director's designee; and

53 (e) three public members appointed by the governor with the consent of the Senate,
54 being private citizens of the state, as follows:

55 (i) two people representing the tourism industry, one each from Wasatch and Utah
56 counties; and

57 (ii) one person representing the public at large.

58 (3) All members shall be residents of the state.

59 (4) (a) Except as required by Subsection (4)(b), the three public members shall be
60 appointed for four-year terms beginning July 1, 2010.

61 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
62 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
63 authority members are staggered so that approximately half of the authority is appointed every
64 two years.

65 (5) Any of the three public members may be removed from office by the governor or
66 for cause by an affirmative vote of any four members of the authority.

67 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
68 appointed for the unexpired term by the governor with consent of the Senate for the unexpired
69 term.

70 (7) Each public member shall hold office for the term of appointment and until a
71 successor has been appointed and qualified.

72 (8) Any public member is eligible for reappointment, but may not serve more than two
73 full consecutive terms.

74 (9) The governor shall appoint the chair of the authority from among its members.

75 (10) The members shall elect from among their number a vice chair and other officers
76 they may determine.

77 (11) The powers of the authority shall be vested in its members.

78 (12) Four members constitute a quorum for transaction of authority business. An
79 affirmative vote of at least four members is necessary for any action to be taken by the
80 authority.

81 (13) (a) (i) Members who are not government employees shall receive no
82 compensation or benefits for their services, but may receive per diem and expenses incurred in
83 the performance of the member's official duties at the rates established by the Division of
84 Finance under Sections 63A-3-106 and 63A-3-107.

85 (ii) Members may decline to receive per diem and expenses for their service.

86 (b) (i) State government officer and employee members who do not receive salary, per
87 diem, or expenses from their agency for their service may receive per diem and expenses
88 incurred in the performance of their official duties from the authority at the rates established by
89 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

90 (ii) State government officer and employee members may decline to receive per diem
91 and expenses for their service.

92 (c) (i) Local government members who do not receive salary, per diem, or expenses
93 from the entity that they represent for their service may receive per diem and expenses incurred
94 in the performance of their official duties at the rates established by the Division of Finance
95 under Sections 63A-3-106 and 63A-3-107.

96 (ii) Local government members may decline to receive per diem and expenses for their
97 service.

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

99 **9-3-503. Executive director -- Powers and duties.**

100 (1) The members shall appoint an executive director who shall be an employee of the
101 authority, but who may not be a member of the authority, and who shall serve at the pleasure of
102 the members and receive compensation as set by the members and approved by the governor.

103 (2) The executive director shall:

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

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

108 (c) attend the meetings of the authority;

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

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

112 (f) perform other duties as directed by the members in carrying out the purposes of this
113 part.

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

115 **9-3-504. Member or employee -- Disclosure of interest.**

116 Any member or employee of the authority who has, will have, or later acquires an
117 interest, direct or indirect, in any transaction with the authority shall immediately disclose the
118 nature and extent of that interest in writing to the authority as soon as the member or employee
119 has knowledge of the actual or prospective interest. This disclosure shall be entered upon the
120 minutes of the authority. Upon this disclosure that member or employee may participate in any

121 action by the authority authorizing the transaction.

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

123 **9-3-505. Officer or employee -- No forfeiture of office or employment.**

124 Notwithstanding the provisions of any other law, no officer or employee of this state
125 shall be considered to have forfeited or shall forfeit an officer's or employee's office or
126 employment by reason of acceptance of membership on the authority or service on it.

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

128 **9-3-506. Authority -- Powers.**

129 (1) The authority shall operate and maintain a scenic and historic railroad in and
130 around the Heber Valley.

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

132 (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its
133 affairs and the conduct of its business;

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

135 (c) maintain an office at any place or places within this state it may designate;

136 (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this part, to carry
137 into effect the powers and purposes of the authority and the conduct of its business;

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

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

140 (g) employ and retain independent legal counsel;

141 (h) make and execute contracts and all other instruments necessary or convenient for
142 the performance of its duties and the exercise of its duties under this part to operate and
143 maintain a scenic railroad in and around the Heber Valley;

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

146 (j) receive appropriation from the Legislature and receive other public moneys and
147 accept aid or contributions from any source of money, property, labor, or other things of value
148 to be held, used, and applied to carry out the purposes of this part subject to the conditions
149 upon which the grants and contributions are made, including, but not limited to, gifts or grants
150 from any department, agency, or instrumentality of the United States or of this state for any
151 purpose consistent with this part;

152 (k) enter into agreements with any department, agency, or instrumentality of the United
153 States or this state for the purpose of providing for the operation and maintenance of a scenic
154 railway in and around the Heber Valley; and

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

156 (3) All monies received by the authority under Subsection (2)(j) and from any other
157 source shall be for the exclusive use of the authority to operate, maintain, improve, and provide
158 for a scenic and historic railway in and around the Heber Valley. The monies received by the
159 authority may not be used for any other purpose or by any other entity.

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

161 **9-3-507. Notes, bonds, other obligation -- Not debt liability -- Expenses payable**
162 **from funds provided -- Agency without authority to incur liability on behalf of state.**

163 (1) An obligation or liability of the authority does not constitute a debt or liability of
164 this state or of any of its political subdivisions nor does any obligation or liability constitute the
165 loaning of credit of the state or of any of its political subdivisions nor may any obligation or
166 liability of the authority be payable from funds other than those of the authority. All
167 obligations of the authority shall contain a statement to the effect that the authority is obligated
168 to pay them solely from the revenues or other funds of the authority and that this state or its
169 political subdivisions are not obligated to pay them and that neither the faith and credit nor the
170 taxing power of this state or any of its political subdivisions is pledged to the payment of them.

171 (2) All expenses incurred in carrying out this part shall be payable solely from funds of
172 the authority provided under this part, and nothing in this part may be construed to authorize
173 the authority to incur indebtedness or liability on behalf of or payable by this state or any of its
174 political subdivisions.

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

176 **9-3-508. Relation to certain acts.**

177 (1) The authority is exempt from:

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

179 (b) Title 63A, Utah Administrative Services Code;

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

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

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

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

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

186 **9-3-509. Duty to maintain rails.**

187 The authority shall maintain the rails, bed, right-of-way, and related property upon
188 which the authority's train shall operate in compliance with state and federal statutes, rules, and
189 regulations.

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

191 **9-3-510. Lease of rails from Department of Transportation and Division of Parks**
192 **and Recreation.**

193 The Department of Transportation and the Division of Parks and Recreation shall
194 jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to
195 the authority.

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

197 **9-3-511. Sales tax exemption.**

198 The authority and its operators are exempt from sales and use tax imposed under Title
199 59, Chapter 12, Sales and Use Tax Act.

Legislative Review Note
as of 11-23-09 3:18 PM

Office of Legislative Research and General Counsel

H.B. 100 - Heber Valley Historic Railroad Authority

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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. The Heber Valley Railroad Authority may incur per diem expenses for board meetings.
