

B AND C ROAD CONSTRUCTION

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Transportation Code by amending provisions relating to the construction and maintenance of class B and class C roads.

Highlighted Provisions:

This bill:

- ▶ prohibits a county or municipality from bidding on certain class B and class C road maintenance or construction projects if the class B or class C road is not under the county or municipality's jurisdiction; and
- ▶ reduces the bid limit for class B and class C road maintenance or construction projects.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-6-108, as last amended by Laws of Utah 2009, Chapter 388

72-6-109, as last amended by Laws of Utah 2007, Chapter 69



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

29 Section 1. Section **72-6-108** is amended to read:

30 **72-6-108. Class B and C roads -- Improvement projects -- Contracts -- Retainage.**

31 (1) A county executive for class B roads and the municipal executive for class C roads
32 shall cause plans, specifications, and estimates to be made prior to the construction of any
33 improvement project, as defined in Section 72-6-109, on a class B or C road if the estimated
34 cost for any one project exceeds the bid limit as defined in Section 72-6-109 for labor,
35 equipment, and materials.

36 (2) (a) All projects in excess of the bid limit shall be performed under contract to be let
37 to the lowest responsible bidder.

38 (b) If the estimated cost of the improvement project exceeds the bid limit for labor,
39 equipment, and materials, the project may not be divided to permit the construction in parts,
40 unless each part is done by contract.

41 (c) A county or municipality may not bid on a class B or class C road maintenance or
42 construction project under this section if the construction project is on a class B or class C road
43 that is not under the county or municipality's jurisdiction.

44 (3) (a) The advertisement on bids shall be published:

45 (i) in a newspaper of general circulation in the county in which the work is to be
46 performed at least once a week for three consecutive weeks; and

47 (ii) in accordance with Section 45-1-101 for three weeks.

48 (b) If there is no newspaper of general circulation as described in Subsection (3)(a)(i),
49 the notice shall be posted for at least 20 days in at least five public places in the county.

50 (4) The county or municipal executive or their designee shall receive sealed bids and
51 open the bids at the time and place designated in the advertisement. The county or municipal
52 executive or their designee may then award the contract but may reject any and all bids.

53 (5) The person, firm, or corporation that is awarded a contract under this section is
54 subject to the provisions of Title 63G, Chapter 6, Utah Procurement Code.

55 (6) If any payment on a contract with a private contractor for construction or
56 improvement of a class B or C road is retained or withheld, the payment shall be retained or
57 withheld and released as provided in Section 13-8-5.

58 Section 2. Section **72-6-109** is amended to read:

59 **72-6-109. Class B and C roads -- Construction and maintenance -- Definitions --**
60 **Estimates lower than bids -- Accountability.**

61 (1) As used in this section and Section 72-6-108:

62 (a) "Bid limit" means:

63 (i) for the year [~~2003, \$125,000~~] 2010, \$50,000; and

64 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an
65 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser
66 of 3% or the actual percent change in the Consumer Price Index during the previous calendar
67 year.

68 (b) "Consumer Price Index" means the Consumer Price Index for All Urban
69 Consumers as published by the Bureau of Labor Statistics of the United States Department of
70 Labor.

71 (c) (i) "Construction" means the work that would apply to:

72 (A) any new roadbed either by addition to existing systems or relocation;

73 (B) resurfacing of existing roadways with more than two inches of bituminous
74 pavement; or

75 (C) new structures or replacement of existing structures, except the replacement of
76 drainage culverts.

77 (ii) "Construction" does not include maintenance, emergency repairs, or the installation
78 of traffic control devices as described in Section 41-6a-302.

79 (d) "Improvement project" means construction and maintenance as defined in this
80 section except for that maintenance excluded under Subsection (2).

81 (e) "Maintenance" means the keeping of a road facility in a safe and usable condition to
82 which it was constructed or improved, and includes:

83 (i) the reworking of an existing surface by the application of up to and including two
84 inches of bituminous pavement;

85 (ii) the installation or replacement of guardrails, seal coats, and culverts;

86 (iii) the grading or widening of an existing unpaved road or flattening of shoulders or
87 side slopes to meet current width and safety standards; and

88 (iv) horizontal or vertical alignment changes necessary to bring an existing road in
89 compliance with current safety standards.

90 (f) "Project" means the performance of a clearly identifiable group of associated road
91 construction activities or the same type of maintenance process, where the construction or
92 maintenance is performed on any one class B or C road, within a half-mile proximity and
93 occurs within the same calendar year.

94 (2) The following types of maintenance work are not subject to the contract or bid limit
95 requirements of this section:

96 (a) the repair of less than the entire surface by crack sealing or patching; and

97 (b) road repairs incidental to the installation, replacement, or repair of water mains,
98 sewers, drainage pipes, culverts, or curbs and gutters.

99 (3) (a) (i) If the estimates of a qualified engineer referred to in Section 72-6-108 are
100 substantially lower than any responsible bid received or in the event no bids are received, the
101 county or municipality may perform the work by force account.

102 (ii) In no event shall "substantially lower" mean estimates that are less than 10% below
103 the lowest responsible bid.

104 (b) If a county or municipality performs an improvement project by force account, it
105 shall:

106 (i) provide an accounting of the costs and expenditures of the improvement including
107 material, labor, and direct equipment costs to be calculated using the Cost Reference Guide for
108 Construction Equipment by Dataquest Inc. or the Federal Emergency Management Agency
109 schedule of equipment rates;

110 (ii) disclose the costs and expenditures to any person upon request and allow the
111 person to make a copy and pay for the actual cost of the copy; and

112 (iii) perform the work using the same specifications and standards that would apply to
113 a private contractor.

Legislative Review Note
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Office of Legislative Research and General Counsel