

**DEPARTMENT OF TRANSPORTATION SETTLEMENT
AGREEMENT AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Transportation Interim Committee recommended this bill.

General Description:

This bill modifies the State Settlement Agreements Act by amending provisions relating to certain Department of Transportation construction contract claim settlement agreements and settlement agreements that resolve bid or request for proposal protests.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires the Department of Transportation to obtain approval of the governor or the Transportation Commission or review by the Legislative Management Committee for certain construction contract claim settlement agreements if the claim is being recommended by the Department of Transportation's claims review board;
- ▶ prohibits the Department of Transportation from entering into a construction contract claim settlement agreement that is being recommended by the Department of Transportation's claims review board in certain circumstances until the governor or the Transportation Commission has approved the agreement or the Legislative Management Committee has reviewed the agreement;
- ▶ requires the Department of Transportation to obtain approval of the governor or the



28 Transportation Commission or review by the Legislative Management Committee for certain
 29 settlement agreements that resolve a bid or request for proposal protest; and
 30 ▶ prohibits the Department of Transportation from entering into a settlement
 31 agreement that resolves a bid or request for proposal protest in certain
 32 circumstances until the governor or the Transportation Commission has approved
 33 the agreement or the Legislative Management Committee has reviewed the
 34 agreement.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 ENACTS:

41 **63G-10-402**, Utah Code Annotated 1953

42 **63G-10-403**, Utah Code Annotated 1953



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

45 Section 1. Section **63G-10-402** is enacted to read:

46 **Part 4. Department of Transportation Settlement Agreements**

47 **63G-10-402. Department of Transportation construction contract claim**

48 **settlement agreement approval and review.**

49 (1) As used in this section:

50 (a) "Claims review board" means a committee established by the department to hear
 51 unresolved claims and make recommendations for settlement to the deputy director of the
 52 department.

53 (b) "Department" means the Department of Transportation created in Section 72-1-201.

54 (c) "Settlement agreement" includes stipulations, consent decrees, settlement
 55 agreements, or other legally binding documents or representations resolving a dispute between
 56 the department and another party when the department is required to pay money or required to
 57 take legally binding action.

58 (2) The department shall obtain the approval of the governor or the Transportation

59 Commission or review by the Legislative Management Committee of a settlement agreement
60 that involves a construction contract claim in accordance with this section.

61 (3) A construction contract claim settlement agreement that is being recommended by
62 the department's claims review board that might cost government entities more than \$100,000
63 to implement shall be presented to the governor for approval or rejection.

64 (4) A construction contract claim settlement agreement that is being recommended by
65 the department's claims review board that might cost government entities more than \$500,000
66 to implement shall be presented:

67 (a) to the governor for approval or rejection; and

68 (b) to the Transportation Commission for approval or rejection.

69 (5) (a) A construction contract claim settlement agreement that is being recommended
70 by the department's claims review board that might cost government entities more than
71 \$1,000,000 to implement shall be presented:

72 (i) to the governor for approval or rejection;

73 (ii) to the Transportation Commission for approval or rejection; and

74 (iii) if the construction contract claim settlement agreement is approved by the
75 governor and the Transportation Commission, to the Legislative Management Committee.

76 (b) The Legislative Management Committee may recommend approval or rejection of
77 the construction contract claim settlement agreement.

78 (6) (a) The department may not enter into a construction contract claim settlement
79 agreement that is being recommended by the department's claims review board that might cost
80 government entities more than \$100,000 to implement until the governor has approved the
81 agreement.

82 (b) The department may not enter into a construction contract claim settlement
83 agreement that is being recommended by the department's claims review board that might cost
84 government entities more than \$500,000 to implement until the governor and the
85 Transportation Commission have approved the agreement.

86 (c) The department may not enter into a construction contract claim settlement
87 agreement that is being recommended by the department's claims review board that might cost
88 government entities more than \$1,000,000 to implement until:

89 (i) the governor has approved the agreement;

90 (ii) the Transportation Commission has approved the agreement; and
91 (iii) the Legislative Management Committee has reviewed the agreement.

92 Section 2. Section **63G-10-403** is enacted to read:

93 **63G-10-403. Department of Transportation bid or request for proposal protest**
94 **settlement agreement approval and review.**

95 (1) As used in this section:

96 (a) "Department" means the Department of Transportation created in Section 72-1-201.

97 (b) "Settlement agreement" includes stipulations, consent decrees, settlement
98 agreements, or other legally binding documents or representations resolving a dispute between
99 the department and another party when the department is required to pay money or required to
100 take legally binding action.

101 (2) The department shall obtain the approval of the governor or the Transportation
102 Commission or review by the Legislative Management Committee of a settlement agreement
103 that involves a bid or request for proposal protest in accordance with this section.

104 (3) A settlement agreement that is being settled by the department as part of a bid or
105 request for proposal protest, in accordance with Section 63G-6-801, that might cost
106 government entities more than \$100,000 to implement shall be presented to the governor for
107 approval or rejection.

108 (4) A settlement agreement that is being settled by the department as part of a bid or
109 request for proposal protest, in accordance with Section 63G-6-801, that might cost
110 government entities more than \$500,000 to implement shall be presented:

111 (a) to the governor for approval or rejection; and

112 (b) to the Transportation Commission for approval or rejection.

113 (5) (a) A settlement agreement that is being settled by the department as part of a bid or
114 request for proposal protest, in accordance with Section 63G-6-801, that might cost
115 government entities more than \$1,000,000 to implement shall be presented:

116 (i) to the governor for approval or rejection;

117 (ii) to the Transportation Commission for approval or rejection; and

118 (iii) if the settlement agreement is approved by the governor and the Transportation
119 Commission, to the Legislative Management Committee.

120 (b) The Legislative Management Committee may recommend approval or rejection of

121 the settlement agreement.

122 (6) (a) The department may not enter into a settlement agreement that resolves a bid or
123 request for proposal protest, in accordance with Section 63G-6-801, that might cost
124 government entities more than \$100,000 to implement until the governor has approved the
125 agreement.

126 (b) The department may not enter into a settlement agreement that resolves a bid or
127 request for proposal protest, in accordance with Section 63G-6-801, that might cost
128 government entities more than \$500,000 to implement until the governor and the
129 Transportation Commission have approved the agreement.

130 (c) The department may not enter into a settlement agreement that resolves a bid or
131 request for proposal protest in accordance with Section 63G-6-801 that might cost government
132 entities more than \$1,000,000 to implement until:

133 (i) the governor has approved the agreement;

134 (ii) the Transportation Commission has approved the agreement; and

135 (iii) the Legislative Management Committee has reviewed the agreement.

Legislative Review Note
as of 11-17-10 2:22 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 34, 2011 General Session

SHORT TITLE: Department of Transportation Settlement Agreement Amendments

SPONSOR: Fisher, Julie

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

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

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.