

HB0011S01 compared with HB0011

~~{deleted text}~~ shows text that was in HB0011 but was deleted in HB0011S01.

inserted text shows text that was not in HB0011 but was inserted into HB0011S01.

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Representative Bradley G. Last proposes the following substitute bill:

LOCAL TRANSPORTATION CORRIDOR PRESERVATION

FUND AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~—The Transportation Interim Committee recommended this bill.~~

~~{General Description:~~

This bill modifies the Transportation Code by amending provisions relating to the Local Transportation Corridor Preservation Fund.

Highlighted Provisions:

This bill:

- ▶ provides that a county highway authority may use funds in the Local Transportation Corridor Preservation Fund for countywide transportation planning if the county's planning focus area is outside the boundaries of a metropolitan planning

HB0011S01 compared with HB0011

organization;

- ▶ provides that a county, city, or town that imposes a local option highway construction and transportation corridor preservation fee may elect to administer the funds allocated to that county, city, or town in the Local Transportation Corridor Preservation Fund as a revolving loan fund;
- ▶ requires a county, city, or town that elects to administer the funds allocated to that county, city, or town as a revolving loan fund to establish repayment conditions of the money to the fund from the specified project funds; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-2-117.5, as last amended by Laws of Utah 2011, Chapters 303 and 342

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

Section 1. Section **72-2-117.5** is amended to read:

72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund --

Disposition of fund money.

- (1) As used in this section:
 - (a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.
 - (b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.
- (2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.
- (3) The fund shall be funded from the following sources:
 - (a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

HB0011S01 compared with HB0011

(b) appropriations made to the fund by the Legislature;
(c) contributions from other public and private sources for deposit into the fund;
(d) all money collected from rents and sales of real property acquired with fund money;
(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(a) to be deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall provide the department with sufficient data for the department to allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) (i) The department shall annually allocate the interest earned on fund money to each county based on the proportionate amount of interest earned on each county's allocation of funds under Subsection (4)(c) on an average monthly balance basis.

(ii) The initial annual allocation of fund interest shall include all interest earned on fund money since the creation of the fund.

(e) The money allocated under Subsection (4)(c):

(i) shall be used for the purposes provided in this section for each county, city, or town; [and]

(ii) [are] is allocated to each county, city or town as provided in this section[~~-(A)~~] with the condition that the state will not be charged for any asset purchased with the money allocated under Subsections (4)(c) and (d); and

HB0011S01 compared with HB0011

~~[(B) are]~~ (iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) The department shall authorize the expenditure of fund money to allow a highway authority to acquire real property or any interests in real property for state, county, and municipal highway corridors subject to:

- (i) money available in the fund to each county under Subsections (4)(c) and (d); and
- (ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated under Subsections (4)(c) and (d) may be used by a county highway authority for countywide transportation planning if:

(i) the ~~[county is not included in]~~ county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated under Subsections (4)(c) and

HB0011S01 compared with HB0011

(d) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund, a local highway authority shall:

(A) apply to the department as required under this section for money from the fund created in this section for a specified transportation corridor project; and

(B) repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is right-of-way:

(A) in a county of the first or second class for [a]:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; or

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(B) in a county of the third, fourth, fifth, or sixth class for [a]:

HB0011S01 compared with HB0011

- (I) a state highway;
- (II) a principal arterial highway as defined in Section 72-4-102.5;
- (III) a minor arterial highway as defined in Section 72-4-102.5;
- (IV) a major collector highway as defined in Section 72-4-102.5; or
- (V) a minor collector road as defined in Section 72-4-102.5.

(iii) The Local Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund money including priority use on designated high priority corridor preservation projects.

(ii) The department shall develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

- (i) made by a highway authority;
- (ii) endorsed by the council of governments; and
- (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by ~~the~~:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

HB0011S01 compared with HB0011

- (i) areas with rapidly expanding population;
- (ii) the willingness of local governments to complete studies and impact statements that meet department standards;
- (iii) the preservation of corridors by the use of local planning and zoning processes;
- (iv) the availability of other public and private matching funds for a project;
- (v) the cost-effectiveness of the preservation projects;
- (vi) long and short-term maintenance costs for property acquired; and
- (vii) whether the transportation corridor is included as part of:
 - (A) the county and municipal master plan; and
 - (B) (I) the statewide long range plan; or
 - (II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.
- (c) The council of governments shall:
 - (i) establish a priority list of highway corridor preservation projects within the county;
 - (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and
 - (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.
- (d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.
- (e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.
- (8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.
- (b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.
- (9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

HB0011S01 compared with HB0011

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not apply for money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

(11) (a) The department shall, in expending or authorizing the expenditure of fund money, ensure to the extent possible that the fund money allocated to a city or town in accordance with Subsection (4) is expended:

(i) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

(ii) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(A) secured by money allocated to the city or town; and

(B) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(iii) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(iv) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the requirements of Subsection (11)(a).

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HB0011S01 compared with HB0011

~~Legislative Review Note~~

~~_____ as of 8-15-12 2:12 PM~~

~~_____ Office of Legislative Research and General Counsel}~~