

## SB0184S01 compared with SB0184

~~{deleted text}~~ shows text that was in SB0184 but was deleted in SB0184S01.

inserted text shows text that was not in SB0184 but was inserted into SB0184S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator J. Stuart Adams proposes the following substitute bill:

### LOCAL GOVERNMENT INSPECTION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: ~~{\_\_\_\_\_}~~ Daniel McCay

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#### LONG TITLE

##### General Description:

This bill enacts language related to construction inspections by local government.

##### Highlighted Provisions:

This bill:

- ▶ ~~{prohibits a municipality or county from transferring money collected by a compliance agency or land use authority out of the respective compliance agency's or land use authority's budget;~~
- ▶ ~~prohibits a land use authority from denying a land use application in certain circumstances;~~ addresses fees collected for construction inspections;
- ▶ prohibits a compliance agency from denying a permit or withdrawing a certificate of occupancy in certain circumstances; and
- ▶ makes technical and conforming amendments.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

~~{AMENDS:~~

~~———— 10-9a-211, as enacted by Laws of Utah 2010, Chapter 332~~

~~———— 10-9a-509, as last amended by Laws of Utah 2012, Chapter 216~~

~~———— 17-27a-211, as enacted by Laws of Utah 2010, Chapter 332~~

~~———— 17-27a-508, as last amended by Laws of Utah 2012, Chapter 216~~

~~{ENACTS:~~

~~10-5-132, Utah Code Annotated 1953~~

~~10-6-160, Utah Code Annotated 1953~~

~~15A-1-104, Utah Code Annotated 1953~~

~~17-36-55, Utah Code Annotated 1953~~

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

Section 1. Section **10-5-132** is enacted to read:

**10-5-132. Fees collected for construction or land use approval.**

~~(1) As used in this section {~~

~~———— (a) "Compliance agency" means an agency, division, department, or other office of a town specifically empowered to enforce compliance with the provisions of Title 15A, State Construction and Fire Codes Act.~~

~~———— (b) "Construction", "construction project" is as defined in Section 38-1a-102.~~

~~{c) "Land use application" is as defined in Section 10-9a-103.~~

~~———— (d) "Land use authority" is as defined in Section 10-9a-103.~~

~~(2) A town governing body may not transfer:~~

~~———— (a) from a town compliance agency's budget any money collected in fees by the compliance agency {2) A fee collected by a town for the inspection of a construction project, issuing a permit for a } shall ensure that the construction project {, or any other official action required in the process of issuing a permit for a construction project, and~~

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~~(b) from a town land use authority's budget any money collected in fees by the land use authority for the review of a land use application, an inspection, if applicable, of a project described in a land use application, or any other official action required in the process of approving a land use application;~~ receives a prompt inspection.

(3) If a town cannot provide a building inspection within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

Section 2. Section **10-6-160** is enacted to read:

### **10-6-160. Fees collected for construction or land use approval.**

(1) As used in this section ~~;~~

~~(a) "Compliance agency" means an agency, division, department, or other office of a city specifically empowered to enforce compliance with the provisions of Title 15A, State Construction and Fire Codes Act.~~

~~(b) "Construction";~~ "construction project" is as defined in Section 38-1a-102.

~~(c) "Land use application" is as defined in Section 10-9a-103.~~

~~(d) "Land use authority" is as defined in Section 10-9a-103.~~

(2) ~~A city governing body may not transfer:~~

~~(a) from a city compliance agency's budget any money collected in fees by the compliance agency;~~ 2) A fee collected by a city for the inspection of a construction project, ~~issuing a permit for a~~ shall ensure that the construction project, ~~or any other official action required in the process of issuing a permit for a construction project; and~~

~~(b) from a city land use authority's budget any money collected in fees by the land use authority for the review of a land use application, an inspection, if applicable, of a project described in a land use application, or any other official action required in the process of approving a land use application;~~ receives a prompt inspection.

(3) If a city cannot provide a building inspection within three business days, the city shall promptly engage an independent inspector with fees collected from the applicant.

Section 3. Section ~~10-9a-211~~ is amended to read:

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

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

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~~\_\_\_\_\_ (a) a current mailing address and phone number;~~

~~\_\_\_\_\_ (b) a contact name; and~~

~~\_\_\_\_\_ (c) a general description of the location of each canal owned or operated by the canal owner or canal operator.~~

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

~~\_\_\_\_\_ Section 4. Section 10-9a-509 is amended to read:~~

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

~~\_\_\_\_\_ (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, a municipal specification for public improvements applicable to a subdivision or development, and an applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:~~

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

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

~~\_\_\_\_\_ (b) A land use authority may not reject a land use application or otherwise withhold approval of a land use application for failure to comply with the applicable provisions of this chapter or a land use ordinance unless the land use authority:~~

~~\_\_\_\_\_ (i) cites with specificity the applicable provision with which the project described in the land use application has failed to comply; and~~

~~\_\_\_\_\_ (ii) describes how the project has failed to comply.~~

~~\_\_\_\_\_ [(b)] (c) (i) Except as provided in Subsection (1)[(c)](d), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)[(b)](c) have~~

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~~been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403:~~

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

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

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

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

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

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

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

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

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

~~—— (C) The location of land described in Subsection (1)(b)(c)(iv)(A) shall be:~~

~~—— (I) provided by a canal company or canal operator to the land use authority; and~~

~~—— (II) (Aa) determined by use of mapping-grade global positioning satellite units; or~~

~~—— (Bb) digitized from the most recent aerial photo available to the canal company or~~

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canal operator:

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

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

~~—— (B) the previous land use application described under Subsection (1)(c)(d)(i)(A) complied with the requirements of Subsections (1)(b)(c)(i) and (ii):~~

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

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

~~—— (B) the previous land use application described under Subsection (1)(c)(d)(ii)(A) complied with the requirements of Subsections (1)(b)(c)(i) and (ii):~~

~~—— [(d)] (e) After a municipality has complied with the requirements of Subsection (1)(b)(c) for a land use application, the municipality may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a):~~

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

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

~~—— (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted:~~

~~—— [(f)] (g) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid:~~

~~—— [(g)] (h) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence:~~

~~—— [(h)] (i) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:~~

~~—— (i) this chapter;~~

~~—— (ii) a municipal ordinance; or~~

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~~—— (iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application:~~

~~—— [(i)] (j) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:~~

~~—— (i) in a land use permit;~~

~~—— (ii) on the subdivision plat;~~

~~—— (iii) in a document on which the land use permit or subdivision plat is based;~~

~~—— (iv) in the written record evidencing approval of the land use permit or subdivision plat;~~

~~—— (v) in this chapter; or~~

~~—— (vi) in a municipal ordinance.~~

~~—— [(j)] (k) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:~~

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

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

~~—— (2) A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances:~~

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

~~—— (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission:~~

~~—— Section 5. Section **15A-1-104** is enacted to read:~~

~~—— **15A-1-104. Permit approval required.**~~

~~‡ **15A-1-104** is enacted to read:~~

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### 15A-1-104. Permit approval required -- Certificate of occupancy valid.

(1) As used in this section:

(a) "Compliance agency" is as defined in Section 15A-1-202.

(b) "Project" is as defined in Section 15A-1-209.

(2) A compliance agency for a political subdivision may not reject a permit or otherwise withhold approval of a project whenever approval is required for failure to comply with the applicable provisions of this title unless the compliance agency:

(a) cites with specificity the applicable provision with which the project has failed to comply; and

(b) describes how the project has failed to comply.

~~Section 6. Section 17-27a-211 is amended to read:~~

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

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

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

~~(b) a contact name; and~~

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

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

~~Section 7. Section 17-27a-508 is amended to read:~~

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

~~Exceptions -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.~~

~~(1) (a) Except as provided in Subsection (1)(b)(c), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the county's land use maps, zoning map, and applicable land use ordinance in effect when a complete application~~

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~~is submitted and all application fees have been paid, unless:~~

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

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

~~—— (b) A land use authority may not reject a land use application or otherwise withhold approval of a land use application for failure to comply with the applicable provisions of this chapter or a land use ordinance unless the land use authority:~~

~~—— (i) cites with specificity the applicable provision with which the project described in the land use application has failed to comply; and~~

~~—— (ii) describes how the project has failed to comply.~~

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

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

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

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

~~—— (A) 30 days after the notification under Subsection (1)[(b)](c)(ii)(A) is received by the Department of Transportation if the land use application is for;~~

(3) If a compliance agency or a representative of a compliance agency issues a certificate of occupancy, the compliance agency may not withdraw the certificate of occupancy or exert additional jurisdiction over the elements of the project for which the certificate was issued unless additional changes or modifications requiring a building permit; or

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

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

~~—— (i) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Section 17-27a-211; and~~

~~—— (ii) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(c)(iv)(A)(i) to approve or reject the subdivision application described in Subsection (1)(b)(c)(iv)(A);~~

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

~~—— (C) The location of land described in Subsection (1)(b)(c)(iv)(A) shall be:~~

~~—— (i) provided by a canal company or canal operator to the land use authority; and~~

~~—— (ii) (Aa) determined by use of mapping-grade global positioning satellite units; or~~

~~—— (Bb) digitized from the most recent aerial photo available to the canal company or canal operator.~~

~~—— (c) (d) (i) A land use application is exempt from the requirements of Subsection (1)(b)(c)(i) if:~~

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

~~—— (B) the previous land use application described under Subsection (1)(c)(d)(i)(A) complied with the requirements of Subsections (1)(b)(c)(i) and (ii);~~

~~—— (ii) A county may approve a land use application without making the required notifications under Subsections (1)(b)(i) and (ii) (1)(c)(ii)(A) if:~~

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

~~—— (B) the previous land use application described under Subsection (1)(c)(d)(ii)(A)~~

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~~complied with the requirements of Subsections (1)(b)(c)(i) and (ii):~~

~~—— [(d)] (e) After a county has complied with the requirements of Subsection (1)(b)(c) for a land use application, the county may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a):~~

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

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

~~—— (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted:~~

~~—— [(f)] (g) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid:~~

~~—— [(g)] (h) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence:~~

~~—— [(h)] (i) A county may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed:~~

~~—— (i) in this chapter;~~

~~—— (ii) in a county ordinance; or~~

~~—— (iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application:~~

~~—— [(i)] (j) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:~~

~~—— (i) in a land use permit;~~

~~—— (ii) on the subdivision plat;~~

~~—— (iii) in a document on which the land use permit or subdivision plat is based;~~

~~—— (iv) in the written record evidencing approval of the land use permit or subdivision plat;~~

~~—— (v) in this chapter; or~~

~~—— (vi) in a county ordinance.~~

~~—— [(j)] (k) A county may not withhold issuance of a certificate of occupancy or~~

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~~acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:~~

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

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

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

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

~~—— (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.~~

~~—— Section 8} are made to elements of the project after the certificate was issued.~~

Section 4. Section 17-36-55 is enacted to read:

### 17-36-55. Fees collected for construction or land use approval.

(1) As used in this section ~~f~~:

~~—— (a) "Compliance agency" means an agency, division, department, or other office of a county specifically empowered to enforce compliance with the provisions of Title 15A, State Construction and Fire Codes Act.~~

~~—— (b) "Construction", "construction project" is as defined in Section 38-1a-102.~~

~~(~~f~~c) "Land use application" is as defined in Section 17-27a-103.~~

~~—— (d) "Land use authority" is as defined in Section 17-27a-103.~~

~~—— (2) A county governing body may not transfer:~~

~~—— (a) from a county compliance agency's budget any money collected in fees by the compliance agency;~~

~~2) A fee collected by a county for the inspection of a construction project, ~~f~~issuing a permit for a ~~f~~shall ensure that the construction project ~~f~~, or any other official action required in the process of issuing a permit for a construction project; and~~

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~~(b) from a county land use authority's budget any money collected in fees by the land use authority for the review of a land use application, an inspection, if applicable, of a project described in a land use application, or any other official action required in the process of approving a land use application.~~

### Legislative Review Note

~~as of 2-7-14 2:42 PM~~

~~Office of Legislative Research and General Counsel~~; receives a prompt inspection.

(3) If a county cannot provide a building inspection within three business days, the county shall promptly engage an independent inspector with fees collected from the applicant.