

SB0249S01 compared with SB0249

~~text~~ shows text that was in SB0249 but was deleted in SB0249S01.

inserted text shows text that was not in SB0249 but was inserted into SB0249S01.

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 Curtis S. Bramble proposes the following substitute bill:

TRANSPORTATION ~~RIGHTS-OF-WAY~~ RIGHTS-OF-WAY SAFETY

AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: ~~_____~~ Mike K. McKell

LONG TITLE

General Description:

This bill enacts a provision relating to state transportation purposes.

Highlighted Provisions:

This bill:

- ▶ expands the definition of "state transportation purposes," within transportation rights-of-way provisions, to include the construction and maintenance of pathways ~~used to divert~~ for pedestrians and other nonmotorized ~~vehicle traffic away from a highway in order~~ transportation to enhance traffic safety and efficiency on the highway.

~~text~~

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- ▶ modifies a provision relating to the acquisition of real property or interests in real property for state transportation purposes; and
- ▶ provides for a repeal of these provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-272, as renumbered and amended by Laws of Utah 2008, Chapter 382

72-5-102, as last amended by Laws of Utah 2001, Chapter 79

~~78B-6-501~~ 72-5-103, as last amended by Laws of Utah ~~2013~~ 2001, Chapter ~~327~~ 79

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

Section 1. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates, Title 72.

Subsections 72-5-102(13) and 72-5-103(1)(b) are repealed July 1, 2017.

Section ~~72-5-102~~ 2. Section 72-5-102 is amended to read:

72-5-102. Definitions.

As used in this part, "state transportation purposes" includes:

- (1) highway and public transportation rights-of-way, including those necessary within cities and towns;
- (2) the construction, reconstruction, relocation, improvement, maintenance, and mitigation from the effects of these activities on state highways and other transportation facilities under the control of the department;
- (3) limited access facilities, including rights of access, air, light, and view and frontage and service roads to highways;
- (4) adequate drainage in connection with any highway, cut, fill, or channel change and the maintenance of any highway, cut, fill, or channel change;
- (5) weighing stations, shops, offices, storage buildings and yards, and road maintenance or construction sites;

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(6) road material sites, sites for the manufacture of road materials, and access roads to the sites;

(7) the maintenance of an unobstructed view of any portion of a highway to promote the safety of the traveling public;

(8) the placement of traffic signals, directional signs, and other signs, fences, curbs, barriers, and obstructions for the convenience of the traveling public;

(9) the construction and maintenance of storm sewers, sidewalks, and highway illumination;

(10) the construction and maintenance of livestock highways;

(11) the construction and maintenance of roadside rest areas adjacent to or near any highway; [and]

(12) the mitigation of impacts from public transportation projects[-]; and

(13) the construction and maintenance of a pathway:

(a) ~~{located within or adjacent to a highway right-of-way or an abandoned railroad right-of-way;~~

~~—— (b) intended for use by pedestrians and others using bicycles or other nonmotorized modes of transportation; and~~

~~—— (c) designed to divert pedestrians} for pedestrians, bicyclists, and other nonmotorized transportation; and~~

(b) designed to enhance {traffic}the safety and efficiency {on the}of a nearby highway.

Section 3. Section 72-5-103 is amended to read:

72-5-103. Acquisition of rights-of-way and other real property -- Title to property acquired.

(1) (a) The department may acquire any real property or interests in real property necessary for temporary, present, or reasonable future state transportation purposes by gift, agreement, exchange, purchase, condemnation, or otherwise.

(b) An acquisition by condemnation under Subsection (1)(a) for state transportation purposes includes the acquisition of a pathway described in Subsection 72-5-102(13), notwithstanding the exclusion under Subsection 78B-6-501(3)(e), if:

(i) the pathway is in close proximity to a highway;

(ii) there is a need to remove pedestrians, bicyclists, and others using a nonmotorized

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method of transportation from the highway in order to enhance the safety and efficiency of the highway:

(iii) because of geological or other constraints, a pathway is the only reasonable alternative to provide a practical and viable means for pedestrians, bicyclists, and others using a nonmotorized method of transportation to use for the purpose of commuting or traveling to destinations they would otherwise reach by using the highway; and

(iv) the department makes a determination that the pathway is needed in order to enhance the safety and efficiency of the highway.

(2) (a) (i) Title to real property acquired by the department or the counties, cities, and towns by gift, agreement, exchange, purchase, condemnation, or otherwise for highway rights-of-way or other transportation purposes may be in fee simple or any lesser estate or interest.

(ii) Title to real property acquired by the department for a public transit project shall be transferred to the public transit district responsible for the project.

(iii) A public transit district shall cover all costs associated with any condemnation on its behalf.

(b) If the highway is a county road, city street under joint title as provided in Subsection 72-3-104(3), or right-of-way described in Title 72, Chapter 5, Part 3, Rights-of-way Across Federal Lands Act, title to all interests in real property less than fee simple held under this section is held jointly by the state and the county, city, or town holding the interest.

(3) A transfer of land bounded by a highway on a right-of-way for which the public has only an easement passes the title of the person whose estate is transferred to the middle of the highway.

~~{ Section 2. Section 78B-6-501 is amended to read:~~

~~78B-6-501. Eminent domain -- Uses for which right may be exercised.~~

~~Subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:~~

~~(1) all public uses authorized by the federal government;~~

~~(2) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;~~

~~(3) (a) public buildings and grounds for the use of any county, city, town, or board of~~

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education;

~~—— (b) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;~~

~~—— (c) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;~~

~~—— (d) bicycle paths and sidewalks adjacent to paved roads;~~

~~—— (e) roads, byroads, streets, and alleys for public vehicular use, including for access to a development, excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; [and]~~

~~—— (f) notwithstanding the exclusion under Subsection (3)(e), a pathway described in Subsection 72-5-102(13); and~~

~~—— [(f)] (g) all other public uses for the benefit of any county, city, or town, or its inhabitants;~~

~~—— (4) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;~~

~~—— (5) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar evaporation ponds and other facilities for the recovery of minerals in solution;~~

~~—— (6) (a) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;~~

~~—— (b) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;~~

~~—— (c) mill dams;~~

~~—— (d) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or~~

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~~formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;~~

~~—— (e) solar evaporation ponds and other facilities for the recovery of minerals in solution; and~~

~~—— (f) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;~~

~~—— (7) byroads leading from a highway to:~~

~~—— (a) a residence; or~~

~~—— (b) a farm;~~

~~—— (8) telegraph, telephone, electric light and electric power lines, and sites for electric light and power plants;~~

~~—— (9) sewage service for:~~

~~—— (a) a city, a town, or any settlement of not fewer than 10 families;~~

~~—— (b) a public building belonging to the state; or~~

~~—— (c) a college or university;~~

~~—— (10) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;~~

~~—— (11) cemeteries and public parks, except for a park whose primary use is:~~

~~—— (a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or~~

~~—— (b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use;~~

~~—— (12) pipelines for the purpose of conducting any and all liquids connected with the manufacture of beet sugar; and~~

~~—— (13) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the~~

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~~proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.~~

Legislative Review Note

~~as of 2-25-14 6:26 AM~~

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