

Representative Francis D. Gibson proposes the following substitute bill:

ROAD CLOSURE AMENDMENTS

2017 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill specifies the process for certain closures of public roads.

Highlighted Provisions:

This bill:

- ▶ modifies municipal authority over roads;
- ▶ adds another circumstance in which a local highway authority may temporarily close a road;
- ▶ allows a local highway authority to:
 - indefinitely close a road in certain circumstances; and
 - change the nature of a road for another public use or purpose; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-8-8, as last amended by Laws of Utah 2005, Chapter 254



26 [10-8-11](#), Utah Code Annotated 1953
27 [72-5-105](#), as last amended by Laws of Utah 2011, Chapter 341



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

30 Section 1. Section **10-8-8** is amended to read:

31 **10-8-8. Streets, parks, airports, parking facilities, public grounds, and pedestrian**
32 **malls.**

33 A municipal legislative body may lay out, establish, open, alter, widen, narrow, extend,
34 grade, pave, or otherwise improve streets, alleys, avenues, boulevards, sidewalks, parks,
35 airports, parking lots, or other facilities for the parking of vehicles off streets, public grounds,
36 and pedestrian malls and may close, in accordance with Section [72-5-105](#), or vacate the same
37 or parts thereof, as provided in this title.

38 Section 2. Section **10-8-11** is amended to read:

39 **10-8-11. Streets -- Encroachments, lighting, sprinkling, cleaning.**

40 They may regulate the use of streets, alleys, avenues, sidewalks, crosswalks, parks, and
41 public grounds, install, prevent [~~and~~], or remove obstructions and encroachments thereon, and
42 provide for the lighting, sprinkling, and cleaning of the same.

43 Section 3. Section **72-5-105** is amended to read:

44 **72-5-105. Highways, streets, or roads once established continue until abandoned**
45 **-- Temporary closure.**

46 (1) [~~AH~~] Except as provided in Subsections (3) and (7), all public highways, streets, or
47 roads once established shall continue to be highways, streets, or roads until formally abandoned
48 or vacated by written order, resolution, or ordinance resolution of a highway authority having
49 jurisdiction or by court decree, and the written order, resolution, ordinance, or court decree has
50 been duly recorded in the office of the recorder of the county or counties where the highway,
51 street, or road is located.

52 (2) (a) For purposes of assessment, upon the recordation of an order executed by the
53 proper authority with the county recorder's office, title to the vacated or abandoned highway,
54 street, or road shall vest to the adjoining record owners, with one-half of the width of the
55 highway, street, or road assessed to each of the adjoining owners.

56 (b) Provided, however, that should a description of an owner of record extend into the

57 vacated or abandoned highway, street, or road that portion of the vacated or abandoned
58 highway, street, or road shall vest in the record owner, with the remainder of the highway,
59 street, or road vested as otherwise provided in this Subsection (2).

60 (c) Title to a highway, street, or road that a local highway authority closes to vehicular
61 traffic under Subsection (3) or (7) remains vested in the city.

62 (3) (a) In accordance with this section, a state or local highway authority may
63 temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B,
64 C, or D road or R.S. 2477 right-of-way.

65 (b) (i) A temporary closure authorized under this section is not an abandonment.

66 (ii) The erection of a barrier or sign on a highway, street, or road once established is
67 not an abandonment.

68 (iii) An interruption of the public's continuous use of a highway, street, or road once
69 established is not an abandonment even if the interruption is allowed to continue unabated.

70 (c) A temporary closure under Subsection (3)(a) may be authorized only under the
71 following circumstances:

72 (i) when a federal authority, or other person, provides an alternate route to an R.S.
73 2477 right-of-way or portion of an R.S. 2477 right-of-way ~~[that]~~ if the alternate route is:

74 (A) accepted by the highway authority; and

75 (B) formalized by ~~[-(F)]~~ a federal permit~~[-]~~ or ~~[(H)]~~ a written agreement between the
76 federal authority or other person and the highway authority; ~~[or]~~

77 (ii) when a state or local highway authority determines that correction or mitigation of
78 injury to private or public land resources is necessary on or near a class B or D road or portion
79 of a class B or D road~~[-]~~; or

80 (iii) when a local highway authority makes a finding that temporary closure of all or
81 part of a class C road is necessary to mitigate unsafe conditions.

82 (d) (i) If a local highway authority temporarily closes all or part of a class C road under
83 Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to
84 another public use or purpose related to the mitigation of the unsafe condition.

85 (ii) If a local highway authority temporarily closes all or part of a class C road under
86 Subsection (3)(c)(iii), and the closed portion of road is the subject of a lease agreement
87 between the local highway authority and another entity, the local highway authority may not

88 reopen the closed portion of the road until the lease agreement terminates.

89 ~~[(4)]~~ (e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an
90 R.S. 2477 right-of-way temporarily closed under this section if the alternate route is closed for
91 any reason.

92 ~~[(e)]~~ (f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

93 (i) be authorized annually; and

94 (ii) not exceed two years or the time it takes to complete the correction or mitigation,
95 whichever is less.

96 (4) To authorize a closure of a road under Subsection (3) or (7), a local highway
97 authority shall pass an ordinance to temporarily or indefinitely close the road.

98 ~~[(4)]~~ (5) Before authorizing a temporary or indefinite closure ~~[under]~~ as described in
99 Subsection ~~[(3)]~~ (4), a highway authority shall:

100 (a) hold a hearing on the proposed temporary or indefinite closure;

101 (b) provide notice of the hearing by ~~[(i)]~~ mailing a notice to the Department of
102 Transportation and all owners of property abutting the highway; and

103 (c) except for a closure under Subsection (3)(c)(iii):

104 ~~[(ii)-(A)]~~ (i) publishing the notice:

105 ~~[(H)]~~ (A) in a newspaper of general circulation in the county at least once a week for
106 four consecutive weeks before the hearing; and

107 ~~[(H)]~~ (B) on the Utah Public Notice Website created in Section 63F-1-701, for four
108 weeks before the hearing; or

109 ~~[(B)]~~ (ii) posting the notice in three public places for at least four consecutive weeks
110 ~~[prior to]~~ before the hearing ~~[; and]~~.

111 ~~[(c)]~~ ~~pass an ordinance authorizing the temporary closure.~~

112 ~~[(5)]~~ (6) The right-of-way and easements, if any, of a property owner and the franchise
113 rights of any public utility may not be impaired by a temporary or indefinite closure authorized
114 under this section.

115 (7) (a) A local highway authority may close to vehicular travel and convert to another
116 public use or purpose a highway, road, or street over which the local highway authority has
117 jurisdiction, for an indefinite period of time, if the local highway authority makes a finding
118 that:

- 119 (i) the closed highway, road, or street is not necessary for vehicular travel;
 - 120 (ii) the closure of the highway, road, or street is necessary to correct or mitigate injury
121 to private or public land resources on or near the highway, road, or street; or
 - 122 (iii) the closure of the highway, road, or street is necessary to mitigate unsafe
123 conditions.
 - 124 (b) If a local highway authority indefinitely closes all or part of a highway, road, or
125 street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease
126 agreement between the local highway authority and another entity, the local highway authority
127 may not reopen the closed portion of the road until the lease agreement terminates.
 - 128 (c) An indefinite closure authorized under this Subsection (7) is not an abandonment.
- 129 **Section 4. Effective date.**
- 130 If approved by two-thirds of all the members elected to each house, this bill takes effect
131 upon approval by the governor, or the day following the constitutional time limit of Utah
132 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
133 the date of veto override.