

Representative Casey Snider proposes the following substitute bill:

RAILROAD RIGHT OF WAY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts provisions related to improvements within railroad right of ways.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ authorizes a government entity to assess a railroad for any portion of the cost of a public infrastructure improvement, if:
 - the improvement is partially or wholly within the railroad's right of way;
 - the improvement provides a benefit to the railroad; and
 - the assessment is proportionate to the railroad's benefit.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

56-1-39, Utah Code Annotated 1953



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

27 Section 1. Section **56-1-39** is enacted to read:

28 **56-1-39. Assessment for right of way infrastructure improvements.**

29 (1) As used in this section:

30 (a) "Benefit" includes enhanced property value, enhanced safety or efficiency, reduced
31 costs, and liability avoidance.

32 (b) "Government entity" means the state or a county, city, town, metro township, local
33 district, or special service district.

34 (c) (i) "Railroad" means a rail carrier that is a Class I railroad, as classified by the
35 federal Surface Transportation Board.

36 (ii) "Railroad" does not include a rail carrier that is:

37 (A) exempt from assessment under 49 U.S.C. Sec. 24301; or

38 (B) owned by a government entity.

39 (d) (i) "Right of way infrastructure improvement" means construction, reconstruction,
40 repair, or maintenance of public infrastructure that:

41 (A) is paid for by a government entity; and

42 (B) is partially or wholly within a railroad's right of way or crosses over a railroad's
43 right of way.

44 (ii) "Right of way infrastructure improvement" includes any component of
45 construction, reconstruction, repair, or maintenance of public infrastructure, including:

46 (A) any environmental impact study, environmental mitigation, or environmental
47 project management; and

48 (B) any required or requested review by a non-governmental entity.

49 (e) "Public infrastructure" means any of the following improvements:

50 (i) a system or line for water, sewer, drainage, electrical, or telecommunications;

51 (ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;

52 (iii) signage or signaling related to an improvement described in Subsection (1)(e)(i) or
53 (ii);

54 (iv) an environmental improvement; or

55 (v) any other improvement similar to the improvements described in Subsections
56 (1)(e)(i) through (iv).

57 (2) A government entity may, to the extent allowed under federal law, assess a railroad
58 for any portion of the cost of a right of way infrastructure improvement, including any cost
59 attributable to delay, if:

60 (a) the government entity determines that the right of way infrastructure improvement
61 provides a benefit to the railroad;

62 (b) the amount of the assessment is proportionate to the benefit the railroad receives, as
63 determined by the government entity; and

64 (c) the government entity uses the assessment to pay for or as reimbursement for the
65 cost of the right of way infrastructure improvement and not for the general support of the
66 government entity.

67 (3) If more than one government entity assesses a railroad for the same right of way
68 infrastructure improvement, the total amount of the assessments may not exceed the amount
69 described in Subsection (2)(b).