

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:

This bill provides a coordination clause.

Utah Code Sections Affected:

ENACTS:

56-1-39, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:



26 56-1-39, Utah Code Annotated 1953



27
28 *Be it enacted by the Legislature of the state of Utah:*

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

30 **56-1-39. Assessment for right of way infrastructure improvements.**

31 (1) As used in this section:

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

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

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

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

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

40 (B) owned by a government entity.

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

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

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

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

48 (A) any environmental impact study, environmental mitigation, or environmental
49 project management; and

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

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

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

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

54 (iii) signage or signaling related to an improvement described in Subsection (1)(e)(i) or

55 (ii);

56 (iv) an environmental improvement; or

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

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

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

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

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

69 (3) (a) If two or more government entities have authority under this section to assess a
70 railroad for the same right of way infrastructure improvement, the Department of
71 Transportation shall:

72 (i) determine the amount of each government entity's assessment in accordance with
73 Subsection (2);

74 (ii) assess the railroad for the total of all amounts described in Subsection (3)(a)(i); and

75 (iii) distribute the collected assessments to each government entity.

76 (b) The total amount of an assessment under this Subsection (3) may not exceed the
77 amount described in Subsection (2)(b).

78 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
79 Department of Transportation may make rules to establish a process for implementing the
80 provisions of this Subsection (3).

81 **Section 2. Coordinating H.B. 51 with H.B. 63 -- Changing terminology.**

82 If this H.B. 51 and H.B. 63, Office of Rail Safety, both pass and become law, it is the
83 intent of the Legislature that the Office of Legislative Research and General Counsel, in
84 preparing the Utah Code database for publication, change the terminology in Subsection
85 56-1-39(3)(a) in this H.B. 51 from "Department of Transportation" to "Office of Rail Safety
86 created in Section 72-17-101."