

**Senator Michael K. McKell** 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

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**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 special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:**

ENACTS:

**56-1-39**, Utah Code Annotated 1953



26 **Utah Code Sections Affected by Coordination Clause:**

27 **56-1-39**, Utah Code Annotated 1953



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

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

31 **56-1-39. Assessment for right of way infrastructure improvements.**

32 (1) As used in this section:

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

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

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

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

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

41 (B) owned by a government entity.

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

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

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

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

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

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

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

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

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

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

56 (ii);

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

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

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

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

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

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

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

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

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

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

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

82 **Section 2. Effective date.**

83 This bill takes effect on March 31, 2024.

84 **Section 3. Coordinating H.B. 51 with H.B. 63 -- Changing terminology.**

85 If this H.B. 51 and H.B. 63, Office of Rail Safety, both pass and become law, it is the  
86 intent of the Legislature that the Office of Legislative Research and General Counsel, in  
87 preparing the Utah Code database for publication, change the terminology in Subsection

88 [56-1-39\(3\)\(a\)](#) in this H.B. 51 from "Department of Transportation" to "Office of Rail Safety  
89 created in Section [72-17-101.](#)"