

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

PUBLIC LANDS POSSESSION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Phil Lyman

Senate Sponsor: Curtis S. Bramble

Cosponsor:	Jason B. Kyle	Rex P. Shipp
Carl R. Albrecht	Trevor Lee	Keven J. Stratton
Walt Brooks	Steven J. Lund	Christine F. Watkins
Tim Jimenez	A. Cory Maloy	
Michael L. Kohler	Thomas W. Peterson	

LONG TITLE

General Description:

This bill asserts ownership and exclusive jurisdiction of roads included on a county travel plan and requires due process before the federal government may close a road.

Highlighted Provisions:

This bill:

- asserts ownership and jurisdiction over roads included on a county's class B and class D road map or a county travel plan unless the road has been closed through proper adjudicative proceedings;
- allows the state or a county to disregard any attempted closure of a road without due process;
- asserts that the burden of proof to show the need to close a road or to claim ownership falls on the federal government; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

22 AMENDS:

23 **63C-4a-403**, as renumbered and amended by Laws of Utah 2013, Chapter 101

24

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

26 Section 1. Section **63C-4a-403** is amended to read:

27 **63C-4a-403 . Due process and adjudication for closure of a road -- Plans for R.S.**
 28 **2477 rights and constitutional defense -- Contents.**

29 (1) (a) Any road on or across federally managed property and that is found on a county's
 30 class B and class D road map or a county travel plan is presumed to be a public road
 31 open for public use unless the road has been closed through an appropriate action of
 32 the state or federal government properly adjudicated and with due process.

33 (b) If the federal government attempts to close a road on a county's class B and class D
 34 road map or county travel plan without proper adjudication and due process:

35 (i) the closure is invalid and has no effect; and

36 (ii) the state and county may disregard the alleged closure.

37 (c) In an adjudication to determine ownership of a disputed road that is included in a
 38 county travel plan, including an R.S. 2477 claim, the federal government has the
 39 burden of proof to show that the disputed road is not a public road and warrants
 40 closure.

41 [(+)] (2) The council may approve an R.S. 2477 plan if the R.S. 2477 plan:

42 (a) provides for a good faith, cooperative effort between the state and each participating
 43 county;

44 (b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a
 45 resolution;

46 (c) provides that the state and a participating county are equal partners in determining
 47 litigation strategy and the expenditure of resources with respect to that county's rights
 48 under R.S. 2477; and

49 (d) provides a process for resolving any disagreement between the state and a
 50 participating county about litigation strategy or resource expenditure that includes the
 51 following requirements:

52 (i) the governor or the governor's designee and a representative of the Utah

53 Association of Counties shall first attempt to resolve the disagreement;

54 (ii) if the county and the state continue to disagree, the county, the governor, and the
 55 Utah Association of Counties shall present their recommendations to the council

56 for a final decision about the strategy or expenditure in question; and
57 (iii) the county may pursue a strategy or make an expenditure contrary to the final
58 decision of the council only if the county does not claim resources provided to
59 fund the R.S. 2477 plan.

60 [~~2~~] (3) The council shall ensure that the R.S. 2477 plan contains:

- 61 (a) provisions identifying which expenditure types require approval of the R.S. 2477
62 plan committee and which expenditure types may be made without the R.S. 2477
63 plan committee approval;
- 64 (b) provisions requiring that financial statements be provided to members of the R.S.
65 2477 plan committee and members of the council, and the frequency with which
66 those financial statements must be provided; [~~and~~]
- 67 (c) provisions identifying those decisions or types of decisions that may be made by the
68 R.S. 2477 plan committee and those decisions or types of decisions that must be
69 referred to the council for decision[~~;~~] ; and
- 70 (d) procedures to assert claims and respond to attempted closures as described in
71 Subsection (1).

72 [~~3~~] (4) (a) The Public Lands Policy Coordinating Office, in consultation with the
73 committee, the Office of the Attorney General and the School and Institutional Trust
74 Lands, shall prepare and submit a constitutional defense plan to the council for the
75 council's approval.

- 76 (b) The constitutional defense plan shall contain proposed action and expenditure for:
77 (i) the council's or the commission's duties; or
78 (ii) an action filed in accordance with Section 67-5-29.

79 [~~4~~] (5) The council shall:

- 80 (a) review expenditures, at least quarterly, made to further a plan approved under this
81 section;
- 82 (b) approve an update to a plan under this section at least annually, or more often, if
83 necessary; and
- 84 (c) jointly, with the Public Lands Policy Coordinating Office, present a R.S. 2477 plan
85 approved under this section, with any updates, to:
- 86 (i) the Legislature's Natural Resources, Agriculture, and Environment Interim
87 Committee by July 1 of each calendar year, after providing the R.S. 2477 plan to
88 the committee at least seven days before the presentation;
- 89 (ii) the commission, which may be by mail; and

90 (iii) the president of the Senate and the speaker of the House of Representatives,
91 which may be by mail.

92 Section 2. **Effective date.**

93 This bill takes effect on May 1, 2024.