

Senator Ronald M. Winterton proposes the following substitute bill:

ROAD CONSTRUCTION BID LIMIT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill updates a statutory bid limit related to procurement for class B and class C road projects.

Highlighted Provisions:

This bill:

- ▶ increases the bid limit for class B and class C road construction projects to allow local governments more flexibility in granting construction projects;
 - ▶ adjusts the inflation factor on the bid limit to tie increases to the National Highway Construction Cost Index instead of the Consumer Price Index;
 - ▶ removes a cap on the annual increase due to inflation;
 - ▶ amends provisions related to bid requirements for construction self-performed by a county or municipality;
 - ▶ requires construction materials used by a county or municipality for self-performed construction are tested to ensure that the materials meet certain quality standards;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **72-6-109**, as last amended by Laws of Utah 2007, Chapter 69



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

32 Section 1. Section **72-6-109** is amended to read:

33 **72-6-109. Class B and C roads -- Construction and maintenance -- Definitions --**
34 **Estimates lower than bids -- Accountability.**

35 (1) As used in this section and Section **72-6-108**:

36 (a) "Bid limit" means:

37 (i) for the year [~~2003, \$125,000~~] 2024, \$350,000; and

38 (ii) for each year after [~~2003~~] 2024, the amount of the bid limit for the previous year,
39 plus an amount calculated by multiplying the amount of the bid limit for the previous year by
40 [~~the lesser of 3% or~~] the actual percent change in the [~~Consumer Price Index~~] National
41 Highway Construction Cost Index during the previous calendar year.

42 [~~(b) "Consumer Price Index" means the Consumer Price Index for All Urban~~
43 ~~Consumers as published by the Bureau of Labor Statistics of the United States Department of~~
44 ~~Labor.~~]

45 [~~(c)~~] (b) (i) "Construction" means the work that would apply to:

46 (A) any new roadbed either by addition to existing systems or relocation;

47 (B) resurfacing of existing roadways with more than two inches of bituminous
48 pavement; or

49 (C) new structures or replacement of existing structures, except the replacement of
50 drainage culverts.

51 (ii) "Construction" does not include maintenance, emergency repairs, or the installation
52 of traffic control devices as described in Section **41-6a-302**.

53 [~~(d)~~] (c) "Improvement project" means construction and maintenance as defined in this
54 section except for that maintenance excluded under Subsection (2).

55 [~~(e)~~] (d) "Maintenance" means the keeping of a road facility in a safe and usable
56

57 condition to which it was constructed or improved, and includes:

58 (i) the reworking of an existing surface by the application of up to and including two
59 inches of bituminous pavement;

60 (ii) the installation or replacement of guardrails, seal coats, and culverts;

61 (iii) the grading or widening of an existing unpaved road or flattening of shoulders or
62 side slopes to meet current width and safety standards; and

63 (iv) horizontal or vertical alignment changes necessary to bring an existing road in
64 compliance with current safety standards.

65 (e) "National Highway Construction Cost Index" means the National Highway
66 Construction Cost Index published by the Federal Highway Administration.

67 (f) "Project" means the performance of a clearly identifiable group of associated road
68 construction activities or the same type of maintenance process, where the construction or
69 maintenance is performed on any one class B or C road, within a half-mile proximity and
70 occurs within the same calendar year.

71 (2) The following types of maintenance work are not subject to the contract or bid limit
72 requirements of this section:

73 (a) the repair of less than the entire surface by crack sealing or patching; and

74 (b) road repairs incidental to the installation, replacement, or repair of water mains,
75 sewers, drainage pipes, culverts, or curbs and gutters.

76 (3) (a) (i) If the estimates of a qualified engineer referred to in Section 72-6-108 are
77 substantially lower than any responsible bid received or in the event no bids are received, the
78 county or municipality may perform the work by force account.

79 (ii) In no event shall "substantially lower" mean estimates that are less than 10% below
80 the lowest responsible bid.

81 (b) If a county or municipality performs an improvement project by force account, it
82 shall:

83 (i) provide an accounting of the costs and expenditures of the improvement including
84 material, labor, and direct equipment costs to be calculated using the Cost Reference Guide for
85 Construction Equipment by Dataquest Inc. or the Federal Emergency Management Agency
86 schedule of equipment rates;

87 (ii) disclose the costs and expenditures to any person upon request and allow the

88 person to make a copy and pay for the actual cost of the copy; and

89 (iii) perform the work using the same specifications and standards that would apply to
90 a private contractor.

91 (4) A county or municipality may not provide construction services to another
92 municipality until satisfying the requirements in Section 72-6-108 have been satisfied by the
93 receiving county or municipality.

94 (5) For any construction self-performed by a county or municipality that exceeds the
95 bid limit, the county or municipality shall seek private bids in accordance with Section
96 72-6-108.

97 (6) (a) Before self-performing any construction, and at least annually, a county or
98 municipality shall ensure that the aggregate, asphalt, and concrete materials owned by the
99 county or municipality for construction use are tested by an independent, qualified firm to
100 ensure the materials meet the same standards required ~~Ĥ~~→ by the department ~~←~~Ĥ for private
100a contractors for the same
101 work:

102 (b) The legislative body of the county or municipality shall ensure that the results of
103 the tests described in Subsection (6)(a) are public record.

104 Section 2. **Effective date.**

105 This bill takes effect on May 1, 2024.