

1 **ROAD CONSTRUCTION BID LIMIT AMENDMENTS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Ronald M. Winterton**
5 House Sponsor: Christine F. Watkins

6
7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

AMENDS:

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

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

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

29 **72-6-109 . Class B and C roads -- Construction and maintenance -- Definitions --**
 30 **Estimates lower than bids -- Accountability.**

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

32 (a) "Bid limit" means:

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

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

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

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

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

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

46 (C) new structures or replacement of existing structures, except the replacement of
 47 drainage culverts.

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

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

52 ~~[(e)]~~ (d) "Maintenance" means the keeping of a road facility in a safe and usable
 53 condition to which it was constructed or improved, and includes:

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

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

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

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

61 (e) "National Highway Construction Cost Index" means the National Highway

- 62 Construction Cost Index published by the Federal Highway Administration.
- 63 (f) "Project" means the performance of a clearly identifiable group of associated road
64 construction activities or the same type of maintenance process, where the
65 construction or maintenance is performed on any one class B or C road, within a
66 half-mile proximity and occurs within the same calendar year.
- 67 (2) The following types of maintenance work are not subject to the contract or bid limit
68 requirements of this section:
- 69 (a) the repair of less than the entire surface by crack sealing or patching; and
70 (b) road repairs incidental to the installation, replacement, or repair of water mains,
71 sewers, drainage pipes, culverts, or curbs and gutters.
- 72 (3) (a) (i) If the estimates of a qualified engineer referred to in Section 72-6-108 are
73 substantially lower than any responsible bid received or in the event no bids are
74 received, the county or municipality may perform the work by force account.
- 75 (ii) In no event shall "substantially lower" mean estimates that are less than 10%
76 below the lowest responsible bid.
- 77 (b) If a county or municipality performs an improvement project by force account, it
78 shall:
- 79 (i) provide an accounting of the costs and expenditures of the improvement including
80 material, labor, and direct equipment costs to be calculated using the Cost
81 Reference Guide for Construction Equipment by Dataquest Inc. or the Federal
82 Emergency Management Agency schedule of equipment rates;
- 83 (ii) disclose the costs and expenditures to any person upon request and allow the
84 person to make a copy and pay for the actual cost of the copy; and
- 85 (iii) perform the work using the same specifications and standards that would apply
86 to a private contractor.
- 87 (4) A county or municipality may not provide construction services to another municipality
88 until the requirements in Section 72-6-108 have been satisfied by the receiving county or
89 municipality.
- 90 (5) For any construction self-performed by a county or municipality that exceeds the bid
91 limit, the county or municipality shall seek private bids in accordance with Section
92 72-6-108.
- 93 (6) (a) Before self-performing any construction, and at least annually, a county or
94 municipality shall ensure that the aggregate, asphalt, and concrete materials owned
95 by the county or municipality for construction use are tested by an independent,

96 qualified firm to ensure the materials meet the same standards required by the
97 department for private contractors for the same work.

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

100 Section 2. **Effective date.**

101 This bill takes effect on May 1, 2024.