

Senator Scott D. Sandall proposes the following substitute bill:

**PUBLIC THOROUGHFARE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

House Sponsor: Bridger Bolinder

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the establishment and invalidation of a public thoroughfare on private land.

**Highlighted Provisions:**

This bill:

► provides that a road on which public use has been discontinued for more than 50 years, ownership is vested in the private property owner.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**72-5-105**, as last amended by Laws of Utah 2023, Chapter 435

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

Section 1. Section **72-5-105** is amended to read:

**72-5-105. Highways, streets, or roads once established continue until abandoned**



26 -- Temporary closure -- Notice.

27 (1) (a) Except as provided in Subsections (1)(b), (3), and (7), all public highways,  
28 streets, or roads once established shall continue to be highways, streets, or roads until formally  
29 abandoned or vacated by written order, resolution, or ordinance resolution of a highway  
30 authority having jurisdiction or by court decree, and the written order, resolution, ordinance, or  
31 court decree has been duly recorded in the office of the recorder of the county or counties  
32 where the highway, street, or road is located.

33 (b) If public use of a highway, street, or road across private land has been discontinued  
34 for more than 50 years:

35 (i) the highway, street, or road is not required to be formally abandoned as described in  
36 Subsection (1)(a); and

37 (ii) ownership of the highway, street, or road is vested in the adjoining record owner or  
38 owners, with one-half of the width of the highway, street, or road vesting to the adjoining  
39 owners.

40 (c) Subsection (1)(b) does not apply to a public highway, street, or road claimed by the  
41 state or county under R.S. 2477 or across federal lands.

42 (2) (a) For purposes of assessment, upon the recordation of an order executed by the  
43 proper authority with the county recorder's office, title to the vacated or abandoned highway,  
44 street, or road shall vest to the adjoining record owners, with one-half of the width of the  
45 highway, street, or road assessed to each of the adjoining owners.

46 (b) Provided, however, that should a description of an owner of record extend into the  
47 vacated or abandoned highway, street, or road that portion of the vacated or abandoned  
48 highway, street, or road shall vest in the record owner, with the remainder of the highway,  
49 street, or road vested as otherwise provided in this Subsection (2).

50 (c) Title to a highway, street, or road that a local highway authority closes to vehicular  
51 traffic under Subsection (3) or (7) remains vested in the city.

52 (3) (a) In accordance with this section, a state or local highway authority may  
53 temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B,  
54 C, or D road or R.S. 2477 right-of-way.

55 (b) (i) A temporary closure authorized under this section is not an abandonment.

56 (ii) The erection of a barrier or sign on a highway, street, or road once established is

57 not an abandonment.

58 (iii) An interruption of the public's continuous use of a highway, street, or road once  
59 established is not an abandonment even if the interruption is allowed to continue unabated.

60 (c) A temporary closure under Subsection (3)(a) may be authorized only under the  
61 following circumstances:

62 (i) when a federal authority, or other person, provides an alternate route to an R.S.  
63 2477 right-of-way or portion of an R.S. 2477 right-of-way if the alternate route is:

64 (A) accepted by the highway authority; and

65 (B) formalized by a federal permit or a written agreement between the federal authority  
66 or other person and the highway authority;

67 (ii) when a state or local highway authority determines that correction or mitigation of  
68 injury to private or public land resources is necessary on or near a class B or D road or portion  
69 of a class B or D road; or

70 (iii) when a local highway authority makes a finding that temporary closure of all or  
71 part of a class C road is necessary to mitigate unsafe conditions.

72 (d) (i) If a local highway authority temporarily closes all or part of a class C road under  
73 Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to  
74 another public use or purpose related to the mitigation of the unsafe condition.

75 (ii) If a local highway authority temporarily closes all or part of a class C road under  
76 Subsection (3)(c)(iii), and the closed portion of road is the subject of a lease agreement  
77 between the local highway authority and another entity, the local highway authority may not  
78 reopen the closed portion of the road until the lease agreement terminates.

79 (e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S.  
80 2477 right-of-way temporarily closed under this section if the alternate route is closed for any  
81 reason.

82 (f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

83 (i) be authorized annually; and

84 (ii) not exceed two years or the time it takes to complete the correction or mitigation,  
85 whichever is less.

86 (4) To authorize a closure of a road under Subsection (3) or (7), a local highway  
87 authority shall pass an ordinance to temporarily or indefinitely close the road.

88 (5) Before authorizing a temporary or indefinite closure as described in Subsection (4),  
89 a highway authority shall:

90 (a) hold a hearing on the proposed temporary or indefinite closure;

91 (b) provide notice of the hearing by mailing a notice to the Department of  
92 Transportation; and

93 (c) except for a closure under Subsection (3)(c)(iii), provide notice to the owners of the  
94 properties abutting the highway, as a class B notice under Section 63G-30-102, for at least four  
95 weeks before the day of the hearing.

96 (6) The right-of-way and easements, if any, of a property owner and the franchise rights  
97 of any public utility may not be impaired by a temporary or indefinite closure authorized under  
98 this section.

99 (7) (a) A local highway authority may close to vehicular travel and convert to another  
100 public use or purpose a highway, road, or street over which the local highway authority has  
101 jurisdiction, for an indefinite period of time, if the local highway authority makes a finding  
102 that:

103 (i) the closed highway, road, or street is not necessary for vehicular travel;

104 (ii) the closure of the highway, road, or street is necessary to correct or mitigate injury  
105 to private or public land resources on or near the highway, road, or street; or

106 (iii) the closure of the highway, road, or street is necessary to mitigate unsafe  
107 conditions.

108 (b) If a local highway authority indefinitely closes all or part of a highway, road, or  
109 street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease  
110 agreement between the local highway authority and another entity, the local highway authority  
111 may not reopen the closed portion of the road until the lease agreement terminates.

112 (c) An indefinite closure authorized under this Subsection (7) is not an abandonment.

113 Section 2. **Effective date.**

114 This bill takes effect on May 1, 2024.