

1 **LOCAL TRANSPORTATION CORRIDOR PRESERVATION**

2 **FUND AMENDMENTS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley G. Last**

6 Senate Sponsor: Evan J. Vickers

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Transportation Code by amending provisions relating to the Local
11 Transportation Corridor Preservation Fund.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that a county highway authority may use funds in the Local Transportation
15 Corridor Preservation Fund for countywide transportation planning if the county's
16 planning focus area is outside the boundaries of a metropolitan planning
17 organization;

18 ▶ provides that a county, city, or town that imposes a local option highway
19 construction and transportation corridor preservation fee may elect to administer the
20 funds allocated to that county, city, or town in the Local Transportation Corridor
21 Preservation Fund as a revolving loan fund;

22 ▶ requires a county, city, or town that elects to administer the funds allocated to that
23 county, city, or town as a revolving loan fund to establish repayment conditions of
24 the money to the fund from the specified project funds; and

25 ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **72-2-117.5**, as last amended by Laws of Utah 2011, Chapters 303 and 342

33

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

35 Section 1. Section **72-2-117.5** is amended to read:

36 **72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund --**

37 **Disposition of fund money.**

38 (1) As used in this section:

39 (a) "Council of governments" means a decision-making body in each county composed
40 of the county governing body and the mayors of each municipality in the county.

41 (b) "Metropolitan planning organization" has the same meaning as defined in Section
42 72-1-208.5.

43 (2) There is created the Local Transportation Corridor Preservation Fund within the
44 Transportation Fund.

45 (3) The fund shall be funded from the following sources:

46 (a) a local option highway construction and transportation corridor preservation fee
47 imposed under Section 41-1a-1222;

48 (b) appropriations made to the fund by the Legislature;

49 (c) contributions from other public and private sources for deposit into the fund;

50 (d) all money collected from rents and sales of real property acquired with fund money;

51 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued
52 as authorized by Title 63B, Bonds;

53 (f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and
54 required by Subsection 59-12-2217(8)(a) to be deposited into the fund; and

55 (g) sales and use tax revenues deposited into the fund in accordance with Section
56 59-12-2218.

57 (4) (a) The fund shall earn interest.

58 (b) All interest earned on fund money shall be deposited into the fund.

59 (c) The State Tax Commission shall provide the department with sufficient data for the
60 department to allocate the revenues:

61 (i) provided under Subsection (3)(a) to each county imposing a local option highway
62 construction and transportation corridor preservation fee under Section 41-1a-1222;

63 (ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county
64 option sales and use tax for transportation; and

65 (iii) provided under Subsection (3)(g) to each county of the second class or city or town
66 within a county of the second class that imposes the sales and use tax authorized by Section
67 59-12-2218.

68 (d) (i) The department shall annually allocate the interest earned on fund money to each
69 county based on the proportionate amount of interest earned on each county's allocation of
70 funds under Subsection (4)(c) on an average monthly balance basis.

71 (ii) The initial annual allocation of fund interest shall include all interest earned on
72 fund money since the creation of the fund.

73 (e) The money allocated under Subsection (4)(c):

74 (i) shall be used for the purposes provided in this section for each county, city, or town;
75 [~~and~~]

76 (ii) [~~are~~] is allocated to each county, city, or town as provided in this section[~~:(A)~~]
77 with the condition that the state will not be charged for any asset purchased with the money
78 allocated under Subsections (4)(c) and (d); and

79 [~~(B) are~~] (iii) is considered a local matching contribution for the purposes described
80 under Section 72-2-123 if used on a state highway.

81 (f) Administrative costs of the department to implement this section shall be paid from
82 the fund.

83 (5) (a) The department shall authorize the expenditure of fund money to allow a
84 highway authority to acquire real property or any interests in real property for state, county, and
85 municipal highway corridors subject to:

86 (i) money available in the fund to each county under Subsections (4)(c) and (d); and
87 (ii) the provisions of this section.

88 (b) Fund money may be used to pay interest on debts incurred in accordance with this
89 section.

90 (c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired
91 under this section but limited to a total of 5% of the purchase price of the property.

92 (B) Any additional maintenance cost shall be paid from funds other than under this
93 section.

94 (C) Revenue generated by any property acquired under this section is excluded from
95 the limitations under this Subsection (5)(c)(i).

96 (ii) Fund money may be used to pay direct costs of acquisition of properties acquired
97 under this section.

98 (d) Fund money allocated under Subsections (4)(c) and (d) may be used by a county
99 highway authority for countywide transportation planning if:

100 (i) the ~~[county is not included in]~~ county's planning focus area is outside the boundaries
101 of a metropolitan planning organization;

102 (ii) the transportation planning is part of the county's continuing, cooperative, and
103 comprehensive process for transportation planning, corridor preservation, right-of-way
104 acquisition, and project programming;

105 (iii) no more than four years allocation every 20 years to each county is used for
106 transportation planning under this Subsection (5)(d); and

107 (iv) the county otherwise qualifies to use the fund money as provided under this
108 section.

109 (e) (i) Subject to Subsection (11), fund money allocated under Subsections (4)(c) and
110 (d) may be used by a county highway authority for transportation corridor planning that is part
111 of the corridor elements of an ongoing work program of transportation projects.

112 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
113 direction of:

114 (A) the metropolitan planning organization if the county is within the boundaries of a
115 metropolitan planning organization; or

116 (B) the department if the county is not within the boundaries of a metropolitan
117 planning organization.

118 (f) (i) A county, city, or town that imposes a local option highway construction and
119 transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the
120 funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund.

121 (ii) If a county, city, or town elects to administer the funds allocated to that county,
122 city, or town under Subsection (4)(c) as a revolving loan fund, a local highway authority shall:

123 (A) apply to the department as required under this section for money from the fund
124 created in this section for a specified transportation corridor project; and

125 (B) repay the fund money authorized for the project to the fund.

126 (iii) A county, city, or town that elects to administer the funds allocated to that county,
127 city, or town under Subsection (4)(c) as a revolving loan fund shall establish repayment
128 conditions of the money to the fund from the specified project funds.

129 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
130 preserve highway corridors, promote long-term statewide transportation planning, save on
131 acquisition costs, and promote the best interests of the state in a manner which minimizes
132 impact on prime agricultural land.

133 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
134 a highway corridor that is right-of-way:

135 (A) in a county of the first or second class for [a]:

136 (I) a state highway;

137 (II) a principal arterial highway as defined in Section 72-4-102.5;

138 (III) a minor arterial highway as defined in Section 72-4-102.5; or

139 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

140 (B) in a county of the third, fourth, fifth, or sixth class for [a]:

141 (I) a state highway;

- 142 (II) a principal arterial highway as defined in Section 72-4-102.5;
- 143 (III) a minor arterial highway as defined in Section 72-4-102.5;
- 144 (IV) a major collector highway as defined in Section 72-4-102.5; or
- 145 (V) a minor collector road as defined in Section 72-4-102.5.
- 146 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
- 147 highway corridor that is primarily a recreational trail as defined under Section 79-5-102.
- 148 (b) (i) The department shall develop and implement a program to educate highway
- 149 authorities on the objectives, application process, use, and responsibilities of the Local
- 150 Transportation Corridor Preservation Fund as provided under this section to promote the most
- 151 efficient and effective use of fund money including priority use on designated high priority
- 152 corridor preservation projects.
- 153 (ii) The department shall develop a model transportation corridor property acquisition
- 154 policy or ordinance that meets federal requirements for the benefit of a highway authority to
- 155 acquire real property or any interests in real property under this section.
- 156 (c) The department shall authorize the expenditure of fund money after determining
- 157 that the expenditure is being made in accordance with this section from applications that are:
- 158 (i) made by a highway authority;
- 159 (ii) endorsed by the council of governments; and
- 160 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).
- 161 (7) (a) (i) A council of governments shall establish a council of governments
- 162 endorsement process which includes prioritization and application procedures for use of the
- 163 money allocated to each county under this section.
- 164 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
- 165 endorsement of the preservation project by ~~the~~:
- 166 (A) the metropolitan planning organization if the county is within the boundaries of a
- 167 metropolitan planning organization; or
- 168 (B) the department if the county is not within the boundaries of a metropolitan
- 169 planning organization.

170 (b) All fund money shall be prioritized by each highway authority and council of
171 governments based on considerations, including:

- 172 (i) areas with rapidly expanding population;
- 173 (ii) the willingness of local governments to complete studies and impact statements
174 that meet department standards;
- 175 (iii) the preservation of corridors by the use of local planning and zoning processes;
- 176 (iv) the availability of other public and private matching funds for a project;
- 177 (v) the cost-effectiveness of the preservation projects;
- 178 (vi) long and short-term maintenance costs for property acquired; and
- 179 (vii) whether the transportation corridor is included as part of:
 - 180 (A) the county and municipal master plan; and
 - 181 (B) (I) the statewide long range plan; or
 - 182 (II) the regional transportation plan of the area metropolitan planning organization if
183 one exists for the area.
- 184 (c) The council of governments shall:
 - 185 (i) establish a priority list of highway corridor preservation projects within the county;
 - 186 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
187 approval; and
 - 188 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
189 members of the county legislative body.
- 190 (d) A county's council of governments may only submit one priority list described in
191 Subsection (7)(c)(i) per calendar year.
- 192 (e) A county legislative body may only consider and approve one priority list described
193 in Subsection (7)(c)(i) per calendar year.
- 194 (8) (a) Unless otherwise provided by written agreement with another highway
195 authority, the highway authority that holds the deed to the property is responsible for
196 maintenance of the property.
- 197 (b) The transfer of ownership for property acquired under this section from one

198 highway authority to another shall include a recorded deed for the property and a written
199 agreement between the highway authorities.

200 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
201 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
202 funds under this section.

203 (b) The highway authority shall pledge the necessary part of the revenues of the Local
204 Transportation Corridor Preservation Fund to the payment of principal and interest on the
205 bonds or other obligations.

206 (10) (a) A highway authority may not apply for money under this section to purchase a
207 right-of-way for a state highway unless the highway authority has:

208 (i) a transportation corridor property acquisition policy or ordinance in effect that
209 meets federal requirements for the acquisition of real property or any interests in real property
210 under this section; and

211 (ii) an access management policy or ordinance in effect that meets the requirements
212 under Subsection 72-2-117(8).

213 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
214 written agreement with the department for the acquisition of real property or any interests in
215 real property under this section.

216 (11) (a) The department shall, in expending or authorizing the expenditure of fund
217 money, ensure to the extent possible that the fund money allocated to a city or town in
218 accordance with Subsection (4) is expended:

219 (i) to fund a project or service as allowed by this section within the city or town to
220 which the fund money is allocated;

221 (ii) to pay debt service, principal, or interest on a bond or other obligation as allowed
222 by this section if that bond or other obligation is:

223 (A) secured by money allocated to the city or town; and

224 (B) issued to finance a project or service as allowed by this section within the city or
225 town to which the fund money is allocated;

226 (iii) to fund transportation planning as allowed by this section within the city or town
227 to which the fund money is allocated; or

228 (iv) for another purpose allowed by this section within the city or town to which the
229 fund money is allocated.

230 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
231 department may make rules to implement the requirements of Subsection (11)(a).