

ABANDONED ROADS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Transportation Code by amending provisions relating to abandoned roads.

Highlighted Provisions:

This bill:

- ▶ repeals a provision that vests a portion of an abandoned highway, street, or road in an owner of record if the owner of record's description extends into the vacated or abandoned highway, street, or road in certain circumstances; and
- ▶ makes technical changes.

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 2010, Chapter 90

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



28 -- Temporary closure.

29 (1) All public highways, streets, or roads once established shall continue to be
30 highways, streets, or roads until abandoned or vacated by order of a highway authority having
31 jurisdiction or by other competent authority.

32 (2) ~~[(a)]~~ For purposes of assessment, upon the recordation of an order executed by the
33 proper authority with the county recorder's office, title to the vacated or abandoned highway,
34 street, or road shall vest to the adjoining record owners, with 1/2 of the width of the highway,
35 street, or road assessed to each of the adjoining owners.

36 ~~[(b) Provided, however, that should a description of an owner of record extend into the
37 vacated or abandoned highway, street, or road that portion of the vacated or abandoned
38 highway, street, or road shall vest in the record owner, with the remainder of the highway,
39 street, or road vested as otherwise provided in this Subsection (2).]~~

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

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

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

46 (i) when a federal authority, or other person, provides an alternate route to an R.S.
47 2477 right-of-way or portion of an R.S. 2477 right-of-way that is:

48 (A) accepted by the highway authority; and

49 (B) formalized by:

50 (I) a federal permit; or

51 (II) a written agreement between the federal authority or other person and the highway
52 authority; or

53 (ii) when a state or local highway authority determines that correction or mitigation of
54 injury to private or public land resources is necessary on or near a class B or D road or portion
55 of a class B or D road.

56 (d) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S.
57 2477 right-of-way temporarily closed under this section if the alternate route is closed for any
58 reason.

- 59 (e) A temporary closure authorized under Subsection (3)(c)(ii) shall:
60 (i) be authorized annually; and
61 (ii) not exceed two years or the time it takes to complete the correction or mitigation,
62 whichever is less.
- 63 (4) Prior to authorizing a temporary closure under Subsection (3), a highway authority
64 shall:
- 65 (a) hold a hearing on the proposed temporary closure;
66 (b) provide notice of the hearing by:
67 (i) mailing a notice to the Department of Transportation and all owners of property
68 abutting the highway; and
69 (ii) (A) publishing the notice:
70 (I) in a newspaper of general circulation in the county at least once a week for four
71 consecutive weeks before the hearing; and
72 (II) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks
73 before the hearing; or
74 (B) posting the notice in three public places for at least four consecutive weeks prior to
75 the hearing; and
76 (c) pass an ordinance authorizing the temporary closure.
- 77 (5) The right-of-way and easements, if any, of a property owner and the franchise rights
78 of any public utility may not be impaired by a temporary closure authorized under this section.

Legislative Review Note
as of 1-21-11 4:02 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 236

SHORT TITLE: **Abandoned Roads**

SPONSOR: **Webb, R. C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Current statute allows the Department of Transportation (UDOT) to sell the right-of-way from an abandoned state road and deposit the proceeds into the Transportation Fund. Although UDOT rarely abandons a road, enactment of this bill could forgo future deposits to the Transportation Fund.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local governments could forgo the value of right-of-way when a local road is abandoned.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

In the event that a road is abandoned, the value of the abandoned right-of-way would accrue to individual land owners.