

1 **ACTIVE TRANSPORTATION AND CANAL TRAIL**

2 **AMENDMENTS**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Rosemary T. Lesser**

6 Senate Sponsor: Wayne A. Harper

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Transportation Interim Committee recommended this bill.

11 Legislative Vote: 14 voting for 0 voting against 4 absent

12 **General Description:**

13 This bill clarifies how the Department of Transportation addresses canal corridors in
14 transportation corridor preservation and project prioritization, and canal trails in active
15 transportation planning.

16 **Highlighted Provisions:**

17 This bill:

- 18 ▶ requires a canal owner or operator to notify certain entities of the intent to abandon
- 19 or transfer title of a canal;
- 20 ▶ provides certain entities the right of first refusal to purchase a canal;
- 21 ▶ requires the Department of Natural Resources to compile a list of certain canals and
- 22 provide that list to the Department of Transportation;
- 23 ▶ requires the Department of Transportation to:
 - 24 • develop a canal trail toolkit;
 - 25 • inventory certain canals in the state;
 - 26 • consider creating a canal trail as part of the active transportation plan; and
 - 27 • identify certain canal corridors for transportation corridor preservation;



28 ▶ enables the Transportation Commission to consider water savings and improvement
29 of canal infrastructure when prioritizing a transportation project; and

30 ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **10-9a-211**, as last amended by Laws of Utah 2017, Chapters 410, 428

38 **17-27a-211**, as last amended by Laws of Utah 2017, Chapters 410, 428

39 **57-13a-101**, as enacted by Laws of Utah 1997, Chapter 175

40 **57-13a-104**, as last amended by Laws of Utah 2023, Chapter 435

41 **72-1-304**, as last amended by Laws of Utah 2023, Chapters 22, 88 and 219

42 **72-5-403**, as last amended by Laws of Utah 2023, Chapter 39

43 ENACTS:

44 **72-1-218**, Utah Code Annotated 1953

45 **79-2-409**, Utah Code Annotated 1953



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

48 Section 1. Section **10-9a-211** is amended to read:

49 **10-9a-211. Canal owner or operator -- Notice to municipality.**

50 (1) (a) A canal company or a canal operator shall ensure that each municipality in
51 which the canal company or canal operator owns or operates a canal has on file, regarding the
52 canal company or canal operator:

53 ~~(a)~~ (i) a current mailing address and phone number;

54 ~~(b)~~ (ii) a contact name; and

55 ~~(c)~~ (iii) a general description of the location of each canal owned or operated by the
56 canal owner or canal operator.

57 ~~(2)~~ (b) If the information described in Subsection ~~(1)~~ (1)(a) changes after a canal
58 company or a canal operator has provided the information to the municipality, the canal

59 company or canal operator shall provide the correct information within 30 days of the day on
60 which the information changes.

61 (2) (a) A canal owner or operator may not transfer title or abandon the canal or portion
62 of the canal until:

63 (i) the canal owner or operator provides the notice of intent described in Subsection
64 (2)(b); and

65 (ii) each entity has the opportunity to exercise the right of first refusal as described in
66 Subsection (2)(c).

67 (b) (i) The canal owner or operator shall send a notice of the intent to transfer title or
68 abandon the canal or portion of the canal, at least 135 days before the transfer of title or
69 abandonment of the canal or portion of the canal, to the following:

70 (A) if applicable, each municipality where the canal or portion of the canal is located;

71 (B) each county where the canal or portion of the canal is located;

72 (C) if applicable, each relevant metropolitan planning organization, as defined in
73 Section [72-1-208.5](#), where the canal or portion of the canal is located; and

74 (D) the Department of Transportation created in Section [72-1-201](#).

75 (ii) The notice of the intent to transfer title or abandon the canal or portion of the canal
76 shall contain:

77 (A) the canal owner's or operator's name and contact information;

78 (B) the date the notice was sent;

79 (C) a description of the canal or portion of the canal; and

80 (D) a map of the canal or portion of the canal.

81 (c) (i) Except as provided in Subsection (2)(c)(ii), the following entities shall have the
82 right of first refusal for the time specified, to purchase the canal or portion of the canal for fair
83 market value:

84 (A) each municipality where the canal or portion of the canal is located shall have from
85 the day on which the notice of intent was sent until the 45th day after the notice of intent was
86 sent to exercise the right of first refusal;

87 (B) each county where the canal or portion of the canal is located shall have from the
88 46th to the 90th day after the notice of intent was sent to exercise the right of first refusal; and

89 (C) the Department of Transportation created in Section [72-1-201](#) shall have from the

90 91st to the 135th day after the notice of intent to exercise the right of first refusal.

91 (ii) If the canal or portion of the canal is not located within the boundaries of a
92 municipality:

93 (A) each county where the canal or portion of the canal is located outside a
94 municipality shall have from the day on which the notice of intent was sent until the 90th day
95 after the notice of intent was sent to exercise the right of first refusal; and

96 (B) the Department of Transportation's time period to exercise the right of first refusal
97 remains the same as described in Subsection (2)(c)(i)(C).

98 (d) If a municipality or county described in Subsection (2)(c) chooses to exercise the
99 right of first refusal, that municipality or county shall notify each entity listed after that
100 municipality or county in Subsection (2)(c)(i) on the day the right of first refusal is exercised.

101 Section 2. Section **17-27a-211** is amended to read:

102 **17-27a-211. Canal owner or operator -- Notice to county.**

103 (1) A canal company or a canal operator shall ensure that each county in which the
104 canal company or canal operator owns or operates a canal has on file, regarding the canal
105 company or canal operator:

106 (a) a current mailing address and phone number;

107 (b) a contact name; and

108 (c) a general description of the location of each canal owned or operated by the canal
109 owner or canal operator.

110 ~~[(2)]~~ (d) If the information described in Subsection ~~[(1)]~~ (1)(a) changes after a canal
111 company or a canal operator has provided the information to the county, the canal company or
112 canal operator shall provide the correct information within 30 days of the day on which the
113 information changes.

114 (2) (a) A canal owner or operator may not transfer title or abandon the canal or portion
115 of the canal until:

116 (i) the canal owner or operator provides the notice of intent described in Subsection
117 (2)(b); and

118 (ii) each entity has the opportunity to exercise the right of first refusal as described in
119 Subsection (2)(c).

120 (b) (i) The canal owner or operator shall send a notice of the intent to transfer title or

121 abandon the canal or portion of the canal, at least 135 days before the transfer of title or
122 abandonment of the canal or portion of the canal, to the following:

123 (A) if applicable, each municipality where the canal or portion of the canal is located;
124 (B) each county where the canal or portion of the canal is located;
125 (C) if applicable, each relevant metropolitan planning organization, as defined in
126 Section 72-1-208.5, where the canal or portion of the canal is located; and
127 (D) the Department of Transportation created in Section 72-1-201.
128 (ii) The notice of the intent to transfer title or abandon the canal or portion of the canal
129 shall contain:

130 (A) the canal owner's or operator's name and contact information;
131 (B) the date the notice was sent;
132 (C) a description of the canal or portion of the canal; and
133 (D) a map of the canal or portion of the canal.

134 (c) (i) Except as provided in Subsection (2)(c)(ii), the following entities shall have the
135 right of first refusal for the time specified, to purchase the canal or portion of the canal for fair
136 market value:

137 (A) each municipality where the canal or portion of the canal is located shall have from
138 the day on which the notice of intent was sent until the 45th day after the notice of intent was
139 sent to exercise the right of first refusal;

140 (B) each county where the canal or portion of the canal is located shall have from the
141 46th to the 90th day after the notice of intent was sent to exercise the right of first refusal; and
142 (C) the Department of Transportation created in Section 72-1-201 shall have from the
143 91st to the 135th day after the notice of intent to exercise the right of first refusal.

144 (ii) If the canal or portion of the canal is not located within the boundaries of a
145 municipality:

146 (A) each county where the canal or portion of the canal is located outside a
147 municipality shall have from the day on which the notice of intent was sent until the 90th day
148 after the notice of intent was sent to exercise the right of first refusal; and
149 (B) the Department of Transportation's time period to exercise the right of first refusal
150 remains the same as described in Subsection (2)(c)(i)(C).

151 (d) If a municipality or county described in Subsection (2)(c) chooses to exercise the

152 right of first refusal, that municipality or county shall notify each entity listed after that
153 municipality or county in Subsection (2)(c)(i) on the day the right of first refusal is exercised.

154 Section 3. Section **57-13a-101** is amended to read:

155 **57-13a-101. Definitions.**

156 As used in this chapter:

157 (1) "Department of Transportation" means the Department of Transportation created in
158 Section 72-1-201.

159 (2) "Metropolitan planning organization" means the same as that term is defined in
160 Section 72-1-208.5.

161 (3) "Water conveyance" means a canal, ditch, pipeline, or other means of conveying
162 water.

163 ~~[(2)]~~ (4) "Water user" means a water user or the water user's predecessor whose water
164 being conveyed is represented by a water right recognized under state law or by shares in a
165 mutual irrigation company.

166 Section 4. Section **57-13a-104** is amended to read:

167 **57-13a-104. Abandonment of prescriptive easement for water conveyance.**

168 (1) A holder of a prescriptive easement for a water conveyance established under
169 Section **57-13a-102** may, in accordance with this section, abandon all or part of the easement.

170 (2) (a) A holder of a prescriptive easement for a water conveyance established under
171 Section **57-13a-102** who seeks to abandon the easement or part of the easement shall, in each
172 county where the easement or part of the easement is located, file in the office of the county
173 recorder a notice of intent to abandon the prescriptive easement that describes the easement or
174 part of the easement to be abandoned.

175 (b) A county recorder who receives a notice of intent to abandon a prescriptive
176 easement shall:

177 (i) publish copies of the notice for the area generally served by the water conveyance
178 that utilizes the easement, as a class A notice under Section **63G-30-102**, for at least 45 days;
179 and

180 (ii) mail a copy of the notice of intent to abandon the prescriptive easement to:

181 (A) each ~~municipal and~~ county government, municipal government, and, if
182 applicable, metropolitan planning organization where the easement or part of the easement is

183 located [-]; and

184 (B) the Department of Transportation.

185 (3) After meeting the requirements of Subsection (2)(a) and at least 45 days after the
186 last day on which the county recorder posts the notice of intent to abandon the prescriptive
187 easement in accordance with Subsection (2)(b), the holder of the prescriptive easement shall
188 file in the office of the county recorder for each county where the easement or part of the
189 easement is located a notice of abandonment that contains the same description required by
190 Subsection (2)(a).

191 (4) (a) Upon completion of the requirements described in Subsection (2):

192 (i) all interest to the easement or part of the easement abandoned by the holder of the
193 easement is extinguished; and

194 (ii) subject to each legal right that exists as described in Subsection (4)(b), the owner of
195 a servient estate whose land was encumbered by the easement or part of the easement
196 abandoned may reclaim the land area occupied by the former easement or part of the easement
197 and resume full utilization of the land without liability to the former holder of the easement.

198 (b) Abandonment of a prescriptive easement under this section does not affect a legal
199 right to have water delivered or discharged through the water conveyance and easement
200 established by a person other than the holder of the easement who abandons an easement as
201 provided in this section.

202 (5) A county recorder may bill the holder of the prescriptive easement for the cost of
203 preparing, printing, and publishing the notice required under Subsection (2)(b).

204 Section 5. Section **72-1-218** is enacted to read:

205 **72-1-218. Canal trails.**

206 (1) As used in this section, "political subdivision" means a municipality, city, town,
207 county, or metro township as defined in Section [10-2a-403](#).

208 (2) The department shall:

209 (a) develop a toolkit for a political subdivision to develop and maintain a canal trail,
210 including:

211 (i) sample license agreements;

212 (ii) available resources that can assist the political subdivision in funding a canal trail;

213 and

214 (iii) best methods, modes, and practices in developing and maintaining a canal trail;

215 (b) make the toolkit described in Subsection (2)(a) publicly available on the

216 department's website;

217 (c) receive the list of canals described in Section 79-2-207 from the Department of

218 Natural Resources created in Section 79-2-201;

219 (d) identify each canal on the list described in Subsection (2)(c) that the department

220 considers to be a high priority corridor as described in Section 72-5-403; and

221 (e) create an inventory of each canal the department identifies as a high priority

222 corridor as described in Subsection (2)(d) that includes:

223 (i) the type of land ownership held by each owner of a canal or portion of a canal;

224 (ii) whether an easement exists pertaining to the canal and the type of easement;

225 (iii) whether the owner of a canal or owner of a portion of a canal is willing to allow

226 pipng of the canal or allow construction of a trail on or along the canal; and

227 (iv) the maximum operating flow rate of the canal.

228 (3) As the department develops the active transportation plan as required in Subsection

229 72-2-124(11)(d)(ii), the department shall consider developing a canal trail along or on an

230 existing canal right of way.

231 Section 6. Section 72-1-304 is amended to read:

232 **72-1-304. Written project prioritization process for new transportation capacity**
233 **projects -- Rulemaking.**

234 (1) (a) The Transportation Commission, in consultation with the department and the
235 metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written
236 prioritization process for the prioritization of:

237 (i) new transportation capacity projects that are or will be part of the state highway
238 system under Chapter 4, Part 1, State Highways;

239 (ii) paved pedestrian or paved nonmotorized transportation projects described in
240 Section 72-2-124;

241 (iii) public transit projects that directly add capacity to the public transit systems within
242 the state, not including facilities ancillary to the public transit system; and

243 (iv) pedestrian or nonmotorized transportation projects that provide connection to a
244 public transit system.

245 (b) (i) A local government or district may nominate a project for prioritization in
246 accordance with the process established by the commission in rule.

247 (ii) If a local government or district nominates a project for prioritization by the
248 commission, the local government or district shall provide data and evidence to show that:

249 (A) the project will advance the purposes and goals described in Section 72-1-211;

250 (B) for a public transit project, the local government or district has an ongoing funding
251 source for operations and maintenance of the proposed development; and

252 (C) the local government or district will provide the percentage of the costs for the
253 project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

254 (2) The following shall be included in the written prioritization process under
255 Subsection (1):

256 (a) a description of how the strategic initiatives of the department adopted under
257 Section 72-1-211 are advanced by the written prioritization process;

258 (b) a definition of the type of projects to which the written prioritization process
259 applies;

260 (c) specification of a weighted criteria system that is used to rank proposed projects
261 and how it will be used to determine which projects will be prioritized;

262 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

263 (e) any other provisions the commission considers appropriate, which may include
264 consideration of:

265 (i) regional and statewide economic development impacts, including improved local
266 access to:

267 (A) employment;

268 (B) educational facilities;

269 (C) recreation;

270 (D) commerce; and

271 (E) residential areas, including moderate income housing as demonstrated in the local
272 government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

273 (ii) the extent to which local land use plans relevant to a project support and
274 accomplish the strategic initiatives adopted under Section 72-1-211; and

275 (iii) any matching funds provided by a political subdivision or public transit district in

276 addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and
277 72-2-124(9)(e).

278 (3) (a) When prioritizing a public transit project that increases capacity, the
279 commission:

280 (i) may give priority consideration to projects that are part of a transit-oriented
281 development or transit-supportive development as defined in Section 17B-2a-802; and

282 (ii) shall give priority consideration to projects that are within the boundaries of a
283 housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6,
284 Housing and Transit Reinvestment Zone Act.

285 (b) When prioritizing a transportation project that increases capacity, the commission
286 may give priority consideration to projects that are:

287 (i) part of a transportation reinvestment zone created under Section 11-13-227 if:

288 (A) the state is a participant in the transportation reinvestment zone; or

289 (B) the commission finds that the transportation reinvestment zone provides a benefit
290 to the state transportation system; or

291 (ii) within the boundaries of a housing and transit reinvestment zone created pursuant
292 to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

293 (c) If the department receives a notice of prioritization for a municipality as described
294 in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection
295 17-27a-408(5), the commission may give priority consideration to transportation projects that
296 are within the boundaries of the municipality or the unincorporated areas of the county until the
297 department receives notification from the Housing and Community Development Division
298 within the Department of Workforce Services that the municipality or county no longer
299 qualifies for prioritization under this Subsection (3)(c).

300 (d) When prioritizing funding from the Active Transportation Investment Fund created
301 under Subsection 72-2-124(11):

302 (i) the department shall provide the commission with information on a project's
303 potential to save water or improve canal infrastructure; and

304 (ii) the commission may consider the information the department provides the
305 commission on a project's potential to save water or improve canal infrastructure.

306 (4) In developing the written prioritization process, the commission:

307 (a) shall seek and consider public comment by holding public meetings at locations
308 throughout the state; and

309 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
310 the state provides an equal opportunity to raise local matching dollars for state highway
311 improvements within each county.

312 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
313 Transportation Commission, in consultation with the department, shall make rules establishing
314 the written prioritization process under Subsection (1).

315 (6) The commission shall submit the proposed rules under this section to a committee
316 or task force designated by the Legislative Management Committee for review prior to taking
317 final action on the proposed rules or any proposed amendment to the rules described in
318 Subsection (5).

319 Section 7. Section 72-5-403 is amended to read:

320 **72-5-403. Transportation corridor preservation powers.**

321 (1) The department, counties, and municipalities may:

322 (a) act in cooperation with one another and other government entities to promote
323 planning for and enhance the preservation of transportation corridors and to more effectively
324 use the money available in the Marda Dillree Corridor Preservation Fund created in Section
325 72-2-117;

326 (b) undertake transportation corridor planning, review, and preservation processes; and

327 (c) acquire fee simple rights and other rights of less than fee simple, including
328 easement and development rights, or the rights to limit development, including rights in
329 alternative transportation corridors, and to make these acquisitions up to a projected 40 years in
330 advance of using those rights in actual transportation facility construction.

331 (2) In addition to the powers described under Subsection (1), counties and
332 municipalities may:

333 (a) limit development for transportation corridor preservation by land use regulation
334 and by official maps; and

335 (b) by ordinance prescribe procedures for approving limited development in
336 transportation corridors until the time transportation facility construction begins.

337 (3) (a) (i) The department shall identify and the commission shall approve

338 transportation corridors as high priority transportation corridors for transportation corridor
339 preservation.

340 (ii) As part of the identification process described in Subsection (3)(a)(i), the
341 department shall identify statewide and regional canal corridors as high priority transportation
342 corridors for transportation corridor preservation.

343 (b) The department shall notify a county or municipality if the county or municipality
344 has land within its boundaries that is located within the boundaries of a high priority
345 transportation corridor.

346 (c) The department may, on a voluntary basis, acquire private property rights within the
347 boundaries of a high priority transportation corridor for which a notification has been received
348 in accordance with Section [10-9a-206](#) or [17-27a-206](#).

349 Section 8. Section **79-2-409** is enacted to read:

350 **79-2-409. Canal list and map.**

351 The department shall:

352 (1) compile a list and map of the canals in the state that have a maximum operating
353 flow rate of 20 cubic feet per second or more; and

354 (2) send the list and map to the Department of Transportation created in Section
355 [72-1-201](#) before October 31, 2024.

356 Section 9. **Effective date.**

357 This bill takes effect on May 1, 2024.