

LOCAL GOVERNMENT INSPECTION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts language related to construction inspections by local government.

Highlighted Provisions:

This bill:

▶ prohibits a municipality or county from transferring money collected by a compliance agency or land use authority out of the respective compliance agency's or land use authority's budget;

▶ prohibits a land use authority from denying a land use application in certain circumstances;

▶ prohibits a compliance agency from denying a permit ~~Ŝ~~ **or withdrawing a certificate of occupancy** ~~←Ŝ~~ in certain circumstances; and

▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-211, as enacted by Laws of Utah 2010, Chapter 332

10-9a-509, as last amended by Laws of Utah 2012, Chapter 216

17-27a-211, as enacted by Laws of Utah 2010, Chapter 332

S.B. 184



28 [17-27a-508](#), as last amended by Laws of Utah 2012, Chapter 216

29 ENACTS:

30 [10-5-132](#), Utah Code Annotated 1953

31 [10-6-160](#), Utah Code Annotated 1953

32 [15A-1-104](#), Utah Code Annotated 1953

33 [17-36-55](#), Utah Code Annotated 1953



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

36 Section 1. Section **10-5-132** is enacted to read:

37 **10-5-132. Fees collected for construction or land use approval.**

38 (1) As used in this section:

39 (a) "Compliance agency" means an agency, division, department, or other office of a
40 town specifically empowered to enforce compliance with the provisions of Title 15A, State
41 Construction and Fire Codes Act.

42 (b) "Construction project" is as defined in Section [38-1a-102](#).

43 (c) "Land use application" is as defined in Section [10-9a-103](#).

44 (d) "Land use authority" is as defined in Section [10-9a-103](#).

45 (2) A town governing body may not transfer:

46 (a) from a town compliance agency's budget any money collected in fees by the
47 compliance agency for the inspection of a construction project, issuing a permit for a
48 construction project, or any other official action required in the process of issuing a permit for a
49 construction project; and

50 (b) from a town land use authority's budget any money collected in fees by the land use
51 authority for the review of a land use application, an inspection, if applicable, of a project
52 described in a land use application, or any other official action required in the process of
53 approving a land use application.

54 Section 2. Section **10-6-160** is enacted to read:

55 **10-6-160. Fees collected for construction or land use approval.**

56 (1) As used in this section:

57 (a) "Compliance agency" means an agency, division, department, or other office of a
58 city specifically empowered to enforce compliance with the provisions of Title 15A, State

59 Construction and Fire Codes Act.

60 (b) "Construction project" is as defined in Section [38-1a-102](#).

61 (c) "Land use application" is as defined in Section [10-9a-103](#).

62 (d) "Land use authority" is as defined in Section [10-9a-103](#).

63 (2) A city governing body may not transfer:

64 (a) from a city compliance agency's budget any money collected in fees by the
65 compliance agency for the inspection of a construction project, issuing a permit for a
66 construction project, or any other official action required in the process of issuing a permit for a
67 construction project; and

68 (b) from a city land use authority's budget any money collected in fees by the land use
69 authority for the review of a land use application, an inspection, if applicable, of a project
70 described in a land use application, or any other official action required in the process of
71 approving a land use application.

72 Section 3. Section **10-9a-211** is amended to read:

73 **10-9a-211. Canal owner or operator -- Notice to municipality.**

74 (1) For purposes of Subsection [10-9a-509](#)(1)(~~b~~)(c)(iv), a canal company or a canal
75 operator shall provide on or before July 1, 2010, any municipality in which the canal company
76 or canal operator owns or operates a canal:

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

78 (b) a contact name; and

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

81 (2) If the information described in Subsection (1) changes after a canal company or a
82 canal operator has provided the information to the municipality, the canal company or canal
83 operator shall provide the correct information within 30 days of the day on which the
84 information was changed.

85 Section 4. Section **10-9a-509** is amended to read:

86 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
87 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
88 **requirements and limitations -- Vesting upon submission of development plan and**
89 **schedule.**

90 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
91 land use application if the application conforms to the requirements of the municipality's land
92 use maps, zoning map, a municipal specification for public improvements applicable to a
93 subdivision or development, and an applicable land use ordinance in effect when a complete
94 application is submitted and all application fees have been paid, unless:

95 (i) the land use authority, on the record, finds that a compelling, countervailing public
96 interest would be jeopardized by approving the application; or

97 (ii) in the manner provided by local ordinance and before the application is submitted,
98 the municipality has formally initiated proceedings to amend its ordinances in a manner that
99 would prohibit approval of the application as submitted.

100 (b) A land use authority may not reject a land use application or otherwise withhold
101 approval of a land use application for failure to comply with the applicable provisions of this
102 chapter or a land use ordinance unless the land use authority:

103 (i) cites with specificity the applicable provision with which the project described in
104 the land use application has failed to comply; and

105 (ii) describes how the project has failed to comply.

106 ~~(b)~~ (c) (i) Except as provided in Subsection (1)~~(e)~~(d), an applicant is not entitled to
107 approval of a land use application until the requirements of this Subsection (1)~~(b)~~(c) have
108 been met if the land use application relates to land located within the boundaries of a high
109 priority transportation corridor designated in accordance with Section 72-5-403.

110 (ii) (A) A municipality shall notify the executive director of the Department of
111 Transportation of any land use applications that relate to land located within the boundaries of
112 a high priority transportation corridor.

113 (B) The notification under Subsection (1)~~(b)~~(c)(ii)(A) shall be in writing and mailed
114 by certified or registered mail to the executive director of the Department of Transportation.

115 (iii) Except as provided in Subsection (1)~~(e)~~(d), a municipality may not approve a
116 land use application that relates to land located within the boundaries of a high priority
117 transportation corridor until:

118 (A) 30 days after the notification under Subsection (1)~~(b)~~(c)(ii)(A) is received by the
119 Department of Transportation if the land use application is for a building permit; or

120 (B) 45 days after the notification under Subsection (1)~~(b)~~(c)(ii)(A) is received by the

121 Department of Transportation if the land use application is for any land use other than a
122 building permit.

123 (iv) (A) If an application is an application for a subdivision approval, including any
124 land, subject to Subsection (1)[(b)](c)(iv)(C), located within 100 feet of the center line of a
125 canal, the land use authority shall:

126 (I) within 30 days after the day on which the application is filed, notify the canal
127 company or canal operator responsible for the canal, if the canal company or canal operator has
128 provided information under Section 10-9a-211; and

129 (II) wait at least 10 days after the day on which the land use authority notifies a canal
130 company or canal operator under Subsection (1)[(b)](c)(iv)(A)(I) to approve or reject the
131 subdivision application described in Subsection (1)[(b)](c)(iv)(A).

132 (B) The notification under Subsection (1)[(b)](c)(iv)(A) shall be in writing and mailed
133 by certified or registered mail to the canal company or canal operator contact described in
134 Section 10-9a-211.

135 (C) The location of land described in Subsection (1)[(b)](c)(iv)(A) shall be:

136 (I) provided by a canal company or canal operator to the land use authority; and

137 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or

138 (Bb) digitized from the most recent aerial photo available to the canal company or
139 canal operator.

140 [(e)] (d) (i) A land use application is exempt from the requirements of Subsections
141 (1)[(b)](c)(i) and (ii) if:

142 (A) the land use application relates to land that was the subject of a previous land use
143 application; and

144 (B) the previous land use application described under Subsection (1)[(e)](d)(i)(A)
145 complied with the requirements of Subsections (1)[(b)](c)(i) and (ii).

146 (ii) A municipality may approve a land use application without making the required
147 notifications under Subsection (1)[(b)](c)(ii)(A) if:

148 (A) the land use application relates to land that was the subject of a previous land use
149 application; and

150 (B) the previous land use application described under Subsection (1)[(e)](d)(ii)(A)
151 complied with the requirements of Subsections (1)[(b)](c)(i) and (ii).

152 ~~[(d)]~~ (e) After a municipality has complied with the requirements of Subsection
153 (1)~~[(b)]~~(c) for a land use application, the municipality may not withhold approval of the land
154 use application for which the applicant is otherwise entitled under Subsection (1)(a).

155 ~~[(e)]~~ (f) The municipality shall process an application without regard to proceedings
156 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii) if:

- 157 (i) 180 days have passed since the proceedings were initiated; and
- 158 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
159 application as submitted.

160 ~~[(f)]~~ (g) An application for a land use approval is considered submitted and complete
161 when the application is provided in a form that complies with the requirements of applicable
162 ordinances and all applicable fees have been paid.

163 ~~[(g)]~~ (h) The continuing validity of an approval of a land use application is conditioned
164 upon the applicant proceeding after approval to implement the approval with reasonable
165 diligence.

166 ~~[(h)]~~ (i) A municipality may not impose on an applicant who has submitted a complete
167 application for preliminary subdivision approval a requirement that is not expressed in:

- 168 (i) this chapter;
- 169 (ii) a municipal ordinance; or
- 170 (iii) a municipal specification for public improvements applicable to a subdivision or
171 development that is in effect on the date that the applicant submits an application.

172 ~~[(i)]~~ (j) A municipality may not impose on a holder of an issued land use permit or a
173 final, unexpired subdivision plat a requirement that is not expressed:

- 174 (i) in a land use permit;
- 175 (ii) on the subdivision plat;
- 176 (iii) in a document on which the land use permit or subdivision plat is based;
- 177 (iv) in the written record evidencing approval of the land use permit or subdivision
178 plat;
- 179 (v) in this chapter; or
- 180 (vi) in a municipal ordinance.

181 ~~[(j)]~~ (k) A municipality may not withhold issuance of a certificate of occupancy or
182 acceptance of subdivision improvements because of an applicant's failure to comply with a

183 requirement that is not expressed:

184 (i) in the building permit or subdivision plat, documents on which the building permit
185 or subdivision plat is based, or the written record evidencing approval of the land use permit or
186 subdivision plat; or

187 (ii) in this chapter or the municipality's ordinances.

188 (2) A municipality is bound by the terms and standards of applicable land use
189 ordinances and shall comply with mandatory provisions of those ordinances.

190 (3) A municipality may not, as a condition of land use application approval, require a
191 person filing a land use application to obtain documentation regarding a school district's
192 willingness, capacity, or ability to serve the development proposed in the land use application.

193 (4) Upon a specified public agency's submission of a development plan and schedule as
194 required in Subsection [10-9a-305\(8\)](#) that complies with the requirements of that subsection, the
195 specified public agency vests in the municipality's applicable land use maps, zoning map,
196 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
197 on the date of submission.

198 Section 5. Section **15A-1-104** is enacted to read:

199 **15A-1-104. Permit approval required ~~§~~ → -- Certificate of occupancy valid ← ~~§~~ .**

200 (1) As used in this section:

201 (a) "Compliance agency" is as defined in Section [15A-1-202](#).

202 (b) "Project" is as defined in Section [15A-1-209](#).

203 (2) A compliance agency for a political subdivision may not reject a permit or
204 otherwise withhold approval of a project for failure to comply with the applicable provisions of
205 this title unless the compliance agency:

206 (a) cites with specificity the applicable provision with which the project has failed to
207 comply; and

208 (b) describes how the project has failed to comply.

208a ~~§~~ → **(3) If a compliance agency or a representative of a compliance agency issues a**
208b **certificate of occupancy, the compliance agency may not withdraw the certificate of occupancy**
208c **or exert additional jurisdiction over the elements of the project for which the certificate was**
208d **issued unless additional changes or modifications requiring a building permit are made to**
208e **elements of the project after the certificate was issued.** ← ~~§~~

209 Section 6. Section **17-27a-211** is amended to read:

210 **17-27a-211. Canal owner or operator -- Notice to county.**

211 (1) For purposes of Subsection [17-27a-508\(1\)\(b\)\(c\)\(iv\)](#), a canal company or a canal
212 operator shall provide on or before July 1, 2010, any county in which the canal company or
213 canal operator owns or operates a canal:

- 214 (a) a current mailing address and phone number;
- 215 (b) a contact name; and
- 216 (c) a general description of the location of each canal owned or operated by the canal
- 217 owner or canal operator.

218 (2) If the information described in Subsection (1) changes after a canal company or a
 219 canal operator has provided the information to the county, the canal company or canal operator
 220 shall provide the correct information within 30 days of the day on which the information was
 221 changed.

222 Section 7. Section 17-27a-508 is amended to read:

223 **17-27a-508. Applicant's entitlement to land use application approval --**
 224 **Exceptions -- Application relating to land in a high priority transportation corridor --**
 225 **County's requirements and limitations -- Vesting upon submission of development plan**
 226 **and schedule.**

227 (1) (a) Except as provided in Subsection (1)~~(b)~~(c), an applicant is entitled to approval
 228 of a land use application if the application conforms to the requirements of the county's land
 229 use maps, zoning map, and applicable land use ordinance in effect when a complete application
 230 is submitted and all application fees have been paid, unless:

231 (i) the land use authority, on the record, finds that a compelling, countervailing public
 232 interest would be jeopardized by approving the application; or

233 (ii) in the manner provided by local ordinance and before the application is submitted,
 234 the county has formally initiated proceedings to amend its ordinances in a manner that would
 235 prohibit approval of the application as submitted.

236 (b) A land use authority may not reject a land use application or otherwise withhold
 237 approval of a land use application for failure to comply with the applicable provisions of this
 238 chapter or a land use ordinance unless the land use authority:

239 (i) cites with specificity the applicable provision with which the project described in
 240 the land use application has failed to comply; and

241 (ii) describes how the project has failed to comply.

242 ~~(b)~~ (c) (i) Except as provided in Subsection (1)~~(e)~~(d), an applicant is not entitled to
 243 approval of a land use application until the requirements of this Subsection (1)~~(b)~~(c)(i) and
 244 Subsection (1)~~(b)~~(c)(ii) have been met if the land use application relates to land located

245 within the boundaries of a high priority transportation corridor designated in accordance with
246 Section 72-5-403.

247 (ii) (A) A county shall notify the executive director of the Department of
248 Transportation of any land use applications that relate to land located within the boundaries of
249 a high priority transportation corridor.

250 (B) The notification under Subsection (1)[(b)](c)(ii)(A) shall be in writing and mailed
251 by certified or registered mail to the executive director of the Department of Transportation.

252 (iii) Except as provided in Subsection (1)[(e)](d), a county may not approve a land use
253 application that relates to land located within the boundaries of a high priority transportation
254 corridor until:

255 (A) 30 days after the notification under Subsection (1)[(b)](c)(ii)(A) is received by the
256 Department of Transportation if the land use application is for a building permit; or

257 (B) 45 days after the notification under Subsection (1)[(b)](c)(ii)(A) is received by the
258 Department of Transportation if the land use application is for any land use other than a
259 building permit.

260 (iv) (A) If an application is an application for a subdivision approval, including any
261 land, subject to Subsection (1)[(b)](c)(iv)(C), located within 100 feet of the center line of a
262 canal, the land use authority shall:

263 (I) within 30 days after the day on which the application is filed, notify the canal
264 company or canal operator responsible for the canal, if the canal company or canal owner has
265 provided information under Section 17-27a-211; and

266 (II) wait at least 10 days after the day on which the land use authority notifies a canal
267 company or canal operator under Subsection (1)[(b)](c)(iv)(A)(I) to approve or reject the
268 subdivision application described in Subsection (1)[(b)](c)(iv)(A).

269 (B) The notification under Subsection (1)[(b)](c)(iv)(A) shall be in writing and mailed
270 by certified or registered mail to the canal company or canal operator contact described in
271 Section 17-27a-211.

272 (C) The location of land described in Subsection (1)[(b)](c)(iv)(A) shall be:

273 (I) provided by a canal company or canal operator to the land use authority; and

274 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or

275 (Bb) digitized from the most recent aerial photo available to the canal company or

276 canal operator.

277 ~~[(e)]~~ (d) (i) A land use application is exempt from the requirements of Subsection
278 (1)~~[(b)]~~(c)(i) if:

279 (A) the land use application relates to land that was the subject of a previous land use
280 application; and

281 (B) the previous land use application described under Subsection (1)~~[(e)]~~(d)(i)(A)
282 complied with the requirements of Subsections (1)~~[(b)]~~(c)(i) and (ii).

283 (ii) A county may approve a land use application without making the required
284 notifications under Subsections ~~[(1)(b)(i) and (ii)]~~ (1)(c)(ii)(A) if:

285 (A) the land use application relates to land that was the subject of a previous land use
286 application; and

287 (B) the previous land use application described under Subsection (1)~~[(e)]~~(d)(ii)(A)
288 complied with the requirements of Subsections (1)~~[(b)]~~(c)(i) and (ii).

289 ~~[(d)]~~ (e) After a county has complied with the requirements of Subsection (1)~~[(b)]~~(c)
290 for a land use application, the county may not withhold approval of the land use application for
291 which the applicant is otherwise entitled under Subsection (1)(a).

292 ~~[(e)]~~ (f) The county shall process an application without regard to proceedings initiated
293 to amend the county's ordinances as provided in Subsection (1)(a)(ii) if:

294 (i) 180 days have passed since the proceedings were initiated; and

295 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
296 application as submitted.

297 ~~[(f)]~~ (g) An application for a land use approval is considered submitted and complete
298 when the application is provided in a form that complies with the requirements of applicable
299 ordinances and all applicable fees have been paid.

300 ~~[(g)]~~ (h) The continuing validity of an approval of a land use application is conditioned
301 upon the applicant proceeding after approval to implement the approval with reasonable
302 diligence.

303 ~~[(h)]~~ (i) A county may not impose on an applicant who has submitted a complete
304 application for preliminary subdivision approval a requirement that is not expressed:

305 (i) in this chapter;

306 (ii) in a county ordinance; or

307 (iii) in a county specification for public improvements applicable to a subdivision or
308 development that is in effect on the date that the applicant submits an application.

309 ~~[(j)]~~ (j) A county may not impose on a holder of an issued land use permit or a final,
310 unexpired subdivision plat a requirement that is not expressed:

- 311 (i) in a land use permit;
- 312 (ii) on the subdivision plat;
- 313 (iii) in a document on which the land use permit or subdivision plat is based;
- 314 (iv) in the written record evidencing approval of the land use permit or subdivision
315 plat;
- 316 (v) in this chapter; or
- 317 (vi) in a county ordinance.

318 ~~[(j)]~~ (k) A county may not withhold issuance of a certificate of occupancy or
319 acceptance of subdivision improvements because of an applicant's failure to comply with a
320 requirement that is not expressed:

- 321 (i) in the building permit or subdivision plat, documents on which the building permit
322 or subdivision plat is based, or the written record evidencing approval of the building permit or
323 subdivision plat; or
- 324 (ii) in this chapter or the county's ordinances.

325 (2) A county is bound by the terms and standards of applicable land use ordinances and
326 shall comply with mandatory provisions of those ordinances.

327 (3) A county may not, as a condition of land use application approval, require a person
328 filing a land use application to obtain documentation regarding a school district's willingness,
329 capacity, or ability to serve the development proposed in the land use application.

330 (4) Upon a specified public agency's submission of a development plan and schedule as
331 required in Subsection [17-27a-305](#)(8) that complies with the requirements of that subsection,
332 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
333 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
334 date of submission.

335 Section 8. Section **17-36-55** is enacted to read:

336 **17-36-55. Fees collected for construction or land use approval.**

337 (1) As used in this section:

338 (a) "Compliance agency" means an agency, division, department, or other office of a
339 county specifically empowered to enforce compliance with the provisions of Title 15A, State
340 Construction and Fire Codes Act.

341 (b) "Construction project" is as defined in Section [38-1a-102](#).

342 (c) "Land use application" is as defined in Section [17-27a-103](#).

343 (d) "Land use authority" is as defined in Section [17-27a-103](#).

344 (2) A county governing body may not transfer:

345 (a) from a county compliance agency's budget any money collected in fees by the
346 compliance agency for the inspection of a construction project, issuing a permit for a
347 construction project, or any other official action required in the process of issuing a permit for a
348 construction project; and

349 (b) from a county land use authority's budget any money collected in fees by the land
350 use authority for the review of a land use application, an inspection, if applicable, of a project
351 described in a land use application, or any other official action required in the process of
352 approving a land use application.

Legislative Review Note
as of 2-7-14 2:42 PM

Office of Legislative Research and General Counsel