

Public Ownership of Traditionally Private Enterprises

To what extent can the Coalition invest in and own traditional private enterprises?

EXAMPLES OF PUBLICLY OWNED ENTERPRISES

The following are cutting-edge examples of enterprises that have been publicly owned and operated:

- **Conrail** – Conrail was a freight rail corporation owned and funded by the U.S. government from 1976 to 1986. Several rail companies had gone bankrupt, imperiling the freight rail in the U.S. Congress enacted legislation creating Conrail to preserve the freight rail system through public ownership and funding. Conrail was publicly owned and operated for a decade before being turned over to private investors.
- **North Dakota Mill and Elevator** – The North Dakota Mill and Elevator is the largest flour mill in the nation, and has been owned and operated by the State of North Dakota directly since 1922. Prior to 1922, wheat in North Dakota sold at a discount because it was stranded. There were no flour mills in North Dakota, forcing farmers in the state to sell at a discount to processing plants in other states and pay a premium to ship by rail. The North Dakota legislature enacted legislation creating and funding the state-owned mill.
- **Cannabis Corner** – Cannabis Corner is a recent enterprise started by the City of North Bonneville, Washington. After marijuana was legalized in Washington, the City of North Bonneville created a public development authority, obtained a marijuana license and now operates the first municipally owned and operated marijuana retailer.

COALITION PROJECTS

Counties and the Coalition can only do what they are authorized to do by the State Legislature. Some important powers are the following:

- Counties are authorized to develop county resources including “minerals, water, manpower, industrial” ... “and other resources”. (UCA 17-50-316).
- Counties may not tax or use uniform fees for a rail (UCA 17-50-322), which means that rail that isn’t supported by taxes is allowed.
- Counties may appropriate money in aid of a private enterprises project if (1) “the county receives value in return for the money appropriated” and (2) determines that “the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.” UCA 17–50-303(4)
- Counties may provide a service, exercise a power, or perform a function that is reasonably related to the “safety, health, morals, and welfare” of county inhabitants,” UCA 17-50-302(1)(a)(ii).
- Counties are granted powers to “finance or acquire” projects under the Industrial Facilities and Development Act, for land or improvements suitable for any business purpose or suitable to

provide services to the general public or to maintain or enlarge domestic or foreign markets for Utah industrial products, including “for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, . . . business,” and health care purposes. UCA 11-17-2 & 3.

While the legislature has granted counties—and thus the Coalition—broad authority, a case-by-case analysis should still be performed for each potential Coalition project in order to ensure that the Coalition is operating within the boundaries set by the state legislature and constitution.

- Oil Pipeline is not specifically authorized but would seem to be authorized under UCA 17-50-316 to develop mineral resources.
- Electrical project is not specifically authorized but its public purpose is sufficient to be an unquestioned public enterprise allowed by general public welfare grants, if nothing else.
- Natural gas lines are not specifically authorized, but again the public purpose is sufficient to be an unquestioned public enterprise allowed by general public welfare grants, if nothing else.
- Hydrogen fuel is not specifically authorized but is likely a “renewable energy system” under the Industrial Facilities and Development Act. (UCA 11-17-2).

While counties are generally authorized to finance or acquire industrial facilities and facilities that serve the public, that authorization is more restricted when it comes to directly financing private enterprises with little return. We would recommend that each project be evaluated independently to determine whether it is already authorized under Utah law, or whether a particular project would benefit by a more express legislative authorization.