

EMINENT DOMAIN AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the uses for which a person may exercise the use of eminent domain.

Highlighted Provisions:

This bill:

- ▶ prohibits the use of eminent domain for economic development and parks; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-501, as last amended by Laws of Utah 2014, Chapter 59

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

Section 1. Section **78B-6-501** is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised.

(1) Subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

[(+)] (a) all public uses authorized by the federal government;



28 ~~[(2)]~~ (b) public buildings and grounds for the use of the state, and all other public uses
29 authorized by the Legislature;

30 ~~[(3)]~~ (a) (i) public buildings and grounds for the use of any county, city, town, or
31 board of education;

32 ~~[(b)]~~ (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
33 sewage, including to or from a development, for the use of the inhabitants of any county, city,
34 or town, or for the draining of any county, city, or town;

35 ~~[(c)]~~ (iii) the raising of the banks of streams, removing obstructions from streams, and
36 widening, deepening, or straightening their channels;

37 ~~[(d)]~~ (iv) bicycle paths and sidewalks adjacent to paved roads;

38 ~~[(e)]~~ (v) roads, byroads, streets, and alleys for public vehicular use, including for access
39 to a development, excluding trails, paths, or other ways for walking, hiking, bicycling,
40 equestrian use, or other recreational uses, or whose primary purpose is as a foot path,
41 equestrian trail, bicycle path, or walkway; and

42 ~~[(f)]~~ (vi) all other public uses for the benefit of any county, city, or town, or its
43 inhabitants;

44 ~~[(4)]~~ (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads,
45 plank and turnpike roads, roads for transportation by traction engines or road locomotives,
46 roads for logging or lumbering purposes, and railroads and street railways for public
47 transportation;

48 ~~[(5)]~~ (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and
49 pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of
50 ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and
51 reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of
52 minerals in solution;

53 ~~[(6)]~~ (a) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping
54 places to access or facilitate the milling, smelting, or other reduction of ores, or the working of
55 mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

56 ~~[(b)]~~ (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or
57 water from mills, smelters or other works for the reduction of ores, or from mines, quarries,
58 coal mines or mineral deposits including minerals in solution;

59 ~~[(e)]~~ (iii) mill dams;

60 ~~[(d)]~~ (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface
61 stratum or formation in any land for the underground storage of natural gas, and in connection
62 with that, any other interests in property which may be required to adequately examine,
63 prepare, maintain, and operate underground natural gas storage facilities;

64 ~~[(e)]~~ (v) solar evaporation ponds and other facilities for the recovery of minerals in
65 solution; and

66 ~~[(f)]~~ (vi) any occupancy in common by the owners or possessors of different mines,
67 quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,
68 or any place for the flow, deposit or conduct of tailings or refuse matter;

69 ~~[(7)]~~ (g) byroads leading from a highway to:

70 ~~[(a)]~~ (i) a residence; or

71 ~~[(b)]~~ (ii) a farm;

72 ~~[(8)]~~ (h) telecommunications, electric light and electric power lines, sites for electric
73 light and power plants, or sites for the transmission of broadcast signals from a station licensed
74 by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that
75 provides emergency broadcast services;

76 ~~[(9)]~~ (i) sewage service for:

77 ~~[(a)]~~ (i) a city, a town, or any settlement of not fewer than 10 families;

78 ~~[(b)]~~ (ii) a public building belonging to the state; or

79 ~~[(e)]~~ (iii) a college or university;

80 ~~[(10)]~~ (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying
81 and storing water for the operation of machinery for the purpose of generating and transmitting
82 electricity for power, light or heat;

83 ~~[(11) cemeteries and public parks, except for a park whose primary use is:]~~

84 ~~[(a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or]~~

85 ~~[(b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or~~
86 ~~equestrian use;]~~

87 (k) cemeteries; and

88 ~~[(12)]~~ (l) sites for mills, smelters or other works for the reduction of ores and necessary
89 to their successful operation, including the right to take lands for the discharge and natural

90 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the
91 powers granted by this section may not be exercised in any county where the population
92 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the
93 proposed condemner has the right to operate by purchase, option to purchase or easement, at
94 least 75% in value of land acreage owned by persons or corporations situated within a radius of
95 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits
96 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing
97 between the condemner and the owner of land within the limit and providing for the operation
98 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have
99 been commenced to restrain the operation of such mill, smelter, or other works for the
100 reduction of ores.

101 (2) A person may not exercise the right of eminent domain on behalf of the following

102 uses:

103 (a) economic development; or

104 (b) parks.