

TRAIL IMPROVEMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill addresses trails.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows for the exercise of eminent domain for trails meeting certain criteria; and
- ▶ makes technical 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:

~~(1)~~ (a) ~~the~~ public uses authorized by the federal government;

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

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

~~(b)~~ (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city,

33 or town, or for the draining of any county, city, or town;

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

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

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

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

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

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

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

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

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

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

63 ~~[(e)]~~ (v) solar evaporation ponds and other facilities for the recovery of minerals in

64 solution; and

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

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

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

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

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

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

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

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

78 ~~[(c)]~~ (iii) a college or university;

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

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

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

84 or

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

87 ~~[(12)]~~ (l) sites for mills, smelters or other works for the reduction of ores and necessary
88 to ~~[their]~~ the mills', smelters', or other works' successful operation, including the right to take
89 lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the
90 operation of works, provided that the powers granted by this section may not be exercised;

91 (i) in any county where the population exceeds 20,000, or within one mile of the limits
92 of any city or incorporated town nor unless the proposed condemner has the right to operate by
93 purchase, option to purchase or easement, at least 75% in value of land acreage owned by
94 persons or corporations situated within a radius of four miles from the mill, smelter or other

95 works for the reduction of ores; nor beyond the limits of the four-mile radius; ~~nor~~
96 (ii) as to lands covered by contracts, easements, or agreements existing between the
97 condemner and the owner of land within the limit and providing for the operation of such mill,
98 smelter, or other works for the reduction of ores; ~~nor~~ or

99 (iii) until an action shall have been commenced to restrain the operation of ~~such~~ the
100 mill, smelter, or other works for the reduction of ores.

101 (2) (a) For purposes of this Subsection (2):

102 (i) "Municipality" means the same as that term is defined in Section 10-1-104.

103 (ii) "Regionally significant trail system" means a trail that crosses the boundaries of:

104 (A) two or more counties;

105 (B) two or more municipalities; or

106 (C) a county and a municipality if the boundaries of the county and municipality are
107 not coextensive or substantially coterminous with the boundaries of each other.

108 (iii) "Trail" means a multi-use path used for:

109 (A) muscle-powered activities, including bicycling, cross-country skiing, walking,
110 jogging, and horseback riding; and

111 (B) a use compatible with the uses described in Subsection (2)(a)(iii)(A), including the
112 use of an electric assisted bicycle or motor assisted scooter, as defined in Section 41-6a-102.

113 (b) Notwithstanding Subsection (1), the right of eminent domain may be exercised for
114 the purposes of a trail, if the part of the trail to be acquired by eminent domain will be:

115 (i) paved;

116 (ii) at least 48 inches in width;

117 (iii) part of a regionally significant trail system; and

118 (iv) approved by resolution of any municipality or county in which the trail will be
119 located.