

Energy Corridor Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: Troy Shelley

LONG TITLE

General Description:

This bill modifies provisions related to eminent domain and the condemnation process for public utilities.

Highlighted Provisions:

This bill:

- requires a person filing an eminent domain action for a high voltage power line to:
 - conduct an infrastructure siting analysis; and
 - coordinate with federal land management agencies before pursuing condemnation of private lands;
- modifies the requirements for certain eminent domain complaints to include infrastructure siting analysis and federal agency coordination documentation;
- requires a public utility to submit an annual report on eminent domain actions and efforts to utilize federal public lands to the Public Utilities, Energy, and Technology Interim Committee; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-504, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-505, as last amended by Laws of Utah 2020, Chapter 290

78B-6-507, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

78B-6-505.5, Utah Code Annotated 1953

78B-6-523, Utah Code Annotated 1953

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

Section 1. Section **78B-6-504** is amended to read:

78B-6-504 . Conditions precedent to taking.

~~[(1) Before property can be taken it must appear that:]~~

~~[(a) the use to which it is to be applied is a use authorized by law;]~~

~~[(b) the taking is necessary for the use;]~~

~~[(c) construction and use of all property sought to be condemned will commence within a reasonable time as determined by the court, after the initiation of proceedings under this part; and]~~

~~[(d) if already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.]~~

~~[(2)] (1)[(a)] As used in this section[;] :~~

~~(a) "Feasible" means reasonably practicable after consideration of factors including:~~

~~(i) cost;~~

~~(ii) delay;~~

~~(iii) terrain;~~

~~(iv) safety; and~~

~~(v) the size and complexity of the infrastructure route.~~

~~(b) ["governing"] "Governing body" means:~~

~~(i) for a county, city, or town, the legislative body of the county, city, or town; and~~

~~(ii) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.~~

~~(c) "High voltage power line" means the same as that term is defined in Section 54-18-102.~~

~~(d) "Infrastructure siting analysis" means a comprehensive evaluation that:~~

~~(i) identifies and assesses all reasonable route alternatives for the proposed infrastructure;~~

~~(ii) prioritizes the use of existing utility corridors in accordance with federal standards;~~

~~(iii) considers first the use of federal public lands when feasible; and~~

(iv) documents why alternatives using federal public lands are not feasible, if applicable.

(e) "Standard Form 299" means the federal form titled "Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property" used to request authorization for use of federal lands.

(2) Before property can be taken it must appear that:

(a) the use to which it is to be applied is a use authorized by law;

(b) the taking is necessary for the use;

(c) construction and use of all property sought to be condemned will commence within a reasonable time as determined by the court, after the initiation of proceedings under this part; and

(d) if already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.

~~[(b)]~~ (3) Property may not be taken by a political subdivision of the state unless the governing body of the political subdivision approves the taking.

~~[(e)]~~ (4)(a) Before taking a final vote to approve the filing of an eminent domain action, the governing body of each political subdivision intending to take property shall provide written notice to each owner of property to be taken of each public meeting of the political subdivision's governing body at which a vote on the proposed taking is expected to occur and allow the property owner the opportunity to be heard on the proposed taking.

~~[(d)]~~ (b) The requirement under Subsection ~~[(2)(e)]~~ (4)(a) to provide notice to a property owner is satisfied by the governing body mailing the written notice to the property owner:

(i) at the owner's address as shown on the records of the county assessor's office; and

(ii) at least 10 business days before the public meeting.

(5) In addition to the requirements of Subsection (2), a person filing an eminent domain action for a high voltage power line shall:

(a) complete an infrastructure siting analysis;

(b) demonstrate that use of federal public lands is not authorized, feasible, or would result in greater public harm than the proposed condemnation; and

(c) submit the analysis to the court as part of the condemnation proceedings.

Section 2. Section **78B-6-505** is amended to read:

78B-6-505 . Negotiation and disclosure required before filing an eminent domain

96 **action.**

97 (1) As used in this section:

98 (a)(i) "Claimant" means a person who is a record interest holder of real property
99 sought to be condemned.

100 (ii) "Claimant" does not include:

101 (A) a fee simple owner; or

102 (B) a utility subject to Section 72-6-116.

103 (b) "Fee simple owner" means the same as that term is defined in Section 57-12-13.

104 (2) A political subdivision of the state that seeks to acquire property by eminent domain or
105 that intends to use eminent domain to acquire property if the property cannot be acquired
106 in a voluntary transaction shall:

107 (a) before the governing body, as defined in Subsection 78B-6-504(2)(a), of the political
108 subdivision takes a final vote to approve the filing of an eminent domain action,
109 make a reasonable effort to negotiate with the fee simple owner for the purchase of
110 the property; and

111 (b) except as provided in Subsection (5), as early in the negotiation process described in
112 Subsection (2)(a) as practicable, but no later than 14 days before the day on which a
113 final vote is taken to approve the filing of an eminent domain action:

114 (i) provide the fee simple owner and each claimant a complete printed copy of the
115 materials provided on the Office of the Property Rights Ombudsman website in
116 accordance with Section 13-43-203 regarding the acquisition of property for a
117 public purpose and a property owner's right to just compensation;

118 (ii) provide the fee simple owner a written statement in substantially the following form:

119 "Although this letter is provided as part of an attempt to negotiate with you for the sale
120 of your property or an interest in your property without using the power of eminent domain,
121 [name of political subdivision] may use that power if it is not able to acquire the property by
122 negotiation. Because of that potential, the person negotiating on behalf of the entity is
123 required to provide the following disclosures to you.

124 1. You are entitled to receive just compensation for your property.

125 2. You are entitled to an opportunity to negotiate with [name of political subdivision]
126 over the amount of just compensation before any legal action will be filed.

127 a. You are entitled to an explanation of how the compensation offered for your property
128 was calculated.

129 b. If an appraiser is asked to value your property, you are entitled to accompany the

130 appraiser during an inspection of the property.

131 3. You are entitled to discuss this case with the attorneys at the Office of the Property
132 Rights Ombudsman. The office may be reached at [provide the current contact information for
133 the Office of the Property Rights Ombudsman].

134 4. The Office of the Property Rights Ombudsman is a neutral state office staffed by
135 attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding
136 and protecting their property rights. You are entitled to ask questions and request an
137 explanation of your legal options.

138 5. If you have a dispute with [name of political subdivision] over the amount of just
139 compensation due to you, you are entitled to request free mediation or arbitration of the
140 dispute from the Office of the Property Rights Ombudsman. As part of mediation or
141 arbitration, you are entitled to request a free independent valuation of the property.

142 6. Oral representations or promises made during the negotiation process are not binding
143 upon the entity seeking to acquire the property by eminent domain."; and

144 (iii) provide each claimant a written statement in substantially the following form:

145 "1. Your interest in property may be impacted by a public improvement project and you
146 may be entitled to receive just compensation.

147 2. You are entitled to discuss this case with the attorneys at the Office of the Property
148 Rights Ombudsman. The office may be reached at [provide the current contact information for
149 the Office of the Property Rights Ombudsman].

150 3. The Office of the Property Rights Ombudsman is a neutral state office staffed by
151 attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding
152 and protecting their property rights. You are entitled to ask questions and request an
153 explanation of your legal options.

154 4. If you have a dispute with [name of entity] over the amount of just compensation due
155 to you, you are entitled to request free mediation or arbitration of the dispute from the Office
156 of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to
157 request a free independent valuation of the property.

158 5. Oral representations or promises made during any negotiation are not binding upon
159 the entity seeking to acquire the property by eminent domain."

160 (3) Except as provided in Subsection (5), the entity involved in the acquisition of property
161 may not bring a legal action to acquire the property under this chapter until 30 days after
162 the day on which the disclosure and materials required in Subsections (2)(b)(ii) and (iii)
163 are provided to the fee simple owner and each claimant.

(4) A person, other than a political subdivision of the state, that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before filing an eminent domain action, make a reasonable effort to negotiate [~~with the property owner for the purchase of the fee simple;~~] with the fee simple owner for the purchase of the property interest being condemned; and

(b) except as provided in Subsection (5), as early in the negotiation process described in Subsection (4)(a) as practicable, but no later than 30 days before the day on which the person files an eminent domain action:

- (i) provide the fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation;
- (ii) provide the fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of entity] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of entity] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of entity] over the amount of just compensation due

to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

(5) The court may, upon a showing of exigent circumstances and for good cause, shorten the 14-day period described in Subsection (2)(b) or the 30-day period described in Subsection (3) or (4)(b).

Section 3. Section **78B-6-505.5** is enacted to read:

78B-6-505.5 . Coordination with federal land management agencies.

(1) Before filing an eminent domain action to condemn private land for a high voltage power line, a person shall:

(a) if federal public land exists within one quarter mile of the proposed high voltage power line, submit a Standard Form 299, or equivalent form, to each relevant federal land management agency to identify potentially suitable federal public land for the proposed use;

(b) document all efforts to coordinate with federal agencies; and

(c) include the documentation described in Subsection (1)(b) in any subsequent eminent

domain filing.

- (2) A person may file an eminent domain action to condemn private land if each relevant federal land management agency fails to respond within 60 days after the person files a Standard Form 299, or equivalent form, with the agency.

Section 4. Section **78B-6-507** is amended to read:

78B-6-507 . Complaint -- Contents.

- (1) The complaint shall contain:

- (a) the name of the corporation, association, commission or person in charge of the public use for which the property is sought, who must be styled plaintiff;
- (b) the names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants;
- (c) a statement of the right of the plaintiff;
- (d) if a right of way is sought, its location, general route, beginning and ending, and be accompanied by a map of the proposed right of way, as it is involved in the action or proceeding;
- (e) if any interest in land is sought for a right of way or associated facilities for a subject activity as defined in Section 19-3-318:
 - (i) the permission of the governor with the concurrence of the Legislature authorizing:
 - (A) use of the site for the subject activity; and
 - (B) use of the proposed route for the subject activity; and
 - (ii) the proposed route as required by Subsection (1)(d);~~and~~
- (f) a description of each piece of land sought to be taken, and whether it includes the whole or only part of an entire parcel or tract~~[-]~~ ; and
- (g) for actions filed for a high voltage power line, the infrastructure siting analysis and federal agency coordination documentation required by Sections 78B-6-504 and 78B-6-505.5.

- (2) All parcels lying in the county and required for the same public use may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of parties.

Section 5. Section **78B-6-523** is enacted to read:

78B-6-523 . Reporting on consideration of federal public lands.

- (1) As used in this section, "public utility" means the same as that term is defined in Section 54-2-1.
- (2) A public utility that files any eminent domain action for a high voltage power line in a

266 calendar year shall submit, on or before July 1 of each year, a report to the Public
267 Utilities, Energy, and Technology Interim Committee detailing:
268 (a) the number of condemnation actions filed in the previous calendar year;
269 (b) infrastructure siting analyses completed to identify and evaluate alternatives using
270 federal public lands prior to initiating a condemnation action;
271 (c) reasons for not utilizing federal public lands, if applicable; and
272 (d) any coordination efforts with federal land management agencies.

273 Section 6. **Effective Date.**

274 This bill takes effect on May 7, 2025.