

Derrin R. Owens proposes the following substitute bill:

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:

29 **78B-6-505.5**, Utah Code Annotated 1953

30 **78B-6-523**, Utah Code Annotated 1953

31

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

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

34 **78B-6-504 . Conditions precedent to taking.**

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

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

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

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

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

43 [(2)] (1)[(a)] As used in this section[;] :

44 (a) [~~governing~~] "Governing body" means:

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

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

48 (b) "High voltage power line" means the same as that term is defined in Section
49 54-18-102.

50 (c) "Infrastructure siting analysis" means a comprehensive evaluation that:

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

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

55 (iii) prioritizes the use of federal public lands; and

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

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

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

60 (b) the taking is necessary for the use;

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

- 63 this part; and
- 64 (d) if already appropriated to some public use, the public use to which it is to be applied
- 65 is a more necessary public use.
- 66 ~~[(b)]~~ (3) Property may not be taken by a political subdivision of the state unless the
- 67 governing body of the political subdivision approves the taking.
- 68 ~~[(e)]~~ (4)(a) Before taking a final vote to approve the filing of an eminent domain action,
- 69 the governing body of each political subdivision intending to take property shall
- 70 provide written notice to each owner of property to be taken of each public meeting
- 71 of the political subdivision's governing body at which a vote on the proposed taking
- 72 is expected to occur and allow the property owner the opportunity to be heard on the
- 73 proposed taking.
- 74 ~~[(d)]~~ (b) The requirement under Subsection ~~[(2)(e)]~~ (4)(a) to provide notice to a property
- 75 owner is satisfied by the governing body mailing the written notice to the property
- 76 owner:
- 77 (i) at the owner's address as shown on the records of the county assessor's office; and
- 78 (ii) at least 10 business days before the public meeting.
- 79 (5) In addition to the requirements of Subsection (2), a person filing an eminent domain
- 80 action for a high voltage power line shall:
- 81 (a) complete an infrastructure siting analysis;
- 82 (b) demonstrate that use of federal public lands is not authorized, feasible, or would
- 83 result in greater public harm than the proposed condemnation; and
- 84 (c) submit the analysis to the court as part of the condemnation proceedings.
- 85 Section 2. Section **78B-6-505** is amended to read:
- 86 **78B-6-505 . Negotiation and disclosure required before filing an eminent domain**
- 87 **action.**
- 88 (1) As used in this section:
- 89 (a)(i) "Claimant" means a person who is a record interest holder of real property
- 90 sought to be condemned.
- 91 (ii) "Claimant" does not include:
- 92 (A) a fee simple owner; or
- 93 (B) a utility subject to Section 72-6-116.
- 94 (b) "Fee simple owner" means the same as that term is defined in Section 57-12-13.
- 95 (2) A political subdivision of the state that seeks to acquire property by eminent domain or
- 96 that intends to use eminent domain to acquire property if the property cannot be acquired

97 in a voluntary transaction shall:

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

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

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

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

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

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

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

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

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

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

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

129 5. If you have a dispute with [name of political subdivision] over the amount of just
130 compensation due to you, you are entitled to request free mediation or arbitration of the

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

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

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

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

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

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

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

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

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

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

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

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

164 (i) provide the fee simple owner and each claimant a complete printed copy of the

165 materials provided on the Office of the Property Rights Ombudsman website in
166 accordance with Section 13-43-203 regarding the acquisition of property for a
167 public purpose and a property owner's right to just compensation;

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

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

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

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

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

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

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

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

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

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

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

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

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

199 the Office of the Property Rights Ombudsman].

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

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

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

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

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

214 **78B-6-505.5 . Coordination with federal land management agencies.**

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

- 217 (1) if federal public land exists within one mile of the proposed high voltage power line,
218 consult with each relevant federal land management agency to identify potentially
219 suitable federal public land for the proposed use;
220 (2) document all efforts to coordinate with federal agencies; and
221 (3) include the documentation described in Subsection (2) in any subsequent eminent
222 domain filing.

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

224 **78B-6-507 . Complaint -- Contents.**

225 (1) The complaint shall contain:

- 226 (a) the name of the corporation, association, commission or person in charge of the
227 public use for which the property is sought, who must be styled plaintiff;
228 (b) the names of all owners and claimants of the property, if known, or a statement that
229 they are unknown, who must be styled defendants;
230 (c) a statement of the right of the plaintiff;
231 (d) if a right of way is sought, its location, general route, beginning and ending, and be
232 accompanied by a map of the proposed right of way, as it is involved in the action or

- 233 proceeding;
- 234 (e) if any interest in land is sought for a right of way or associated facilities for a subject
235 activity as defined in Section 19-3-318:
- 236 (i) the permission of the governor with the concurrence of the Legislature authorizing:
- 237 (A) use of the site for the subject activity; and
- 238 (B) use of the proposed route for the subject activity; and
- 239 (ii) the proposed route as required by Subsection (1)(d);~~and~~
- 240 (f) a description of each piece of land sought to be taken, and whether it includes the
241 whole or only part of an entire parcel or tract[-] ; and
- 242 (g) for actions filed for a high voltage power line, the infrastructure siting analysis and
243 federal agency coordination documentation required by Sections 78B-6-504 and
244 78B-6-505.5.

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

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

249 **78B-6-523 . Reporting on consideration of federal public lands.**

- 250 (1) As used in this section, "public utility" means the same as that term is defined in Section
251 54-2-1.
- 252 (2) A public utility that files any eminent domain action for a high voltage power line in a
253 calendar year shall submit, on or before July 1 of each year, a report to the Public
254 Utilities, Energy, and Technology Interim Committee detailing:
- 255 (a) the number of condemnation actions filed in the previous calendar year;
- 256 (b) infrastructure siting analyses completed to identify and evaluate alternatives using
257 federal public lands prior to initiating a condemnation action;
- 258 (c) reasons for not utilizing federal public lands, if applicable; and
- 259 (d) any coordination efforts with federal land management agencies.

260 Section 6. **Effective Date.**

261 This bill takes effect on May 7, 2025.