

PUBLIC TRANSIT DISTRICTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Marda Dillree

This act modifies the Utah Public Transit District Act to authorize certain public transit districts to exercise the power of eminent domain. The act expands the ways by which public transit districts may acquire property.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-1016, as last amended by Chapter 254, Laws of Utah 2000

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

Section 1. Section **17A-2-1016** is amended to read:

17A-2-1016. Powers of incorporated district -- Bidding -- Eminent domain.

(1) As used in this section, "operator" means any city, public agency, person, firm, or private corporation engaged in the transportation of passengers for hire.

(2) Any district incorporated under this part may:

(a) have perpetual succession;

(b) sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction;

(c) adopt a corporate seal and alter it at pleasure;

(d) levy and collect taxes only for paying:

(i) the principal and interest of bonded indebtedness of the district; or

(ii) any final judgment obtained against the district beyond the amount of any collectable insurance or indemnity policy if the district is required by final order of any court of competent jurisdiction to levy a tax to pay the judgment;

(e) take by grant, purchase, bequest, devise, [or] lease, exchange, or, as provided in Subsection (5)(a), eminent domain, and [to] hold, enjoy, lease, sell, encumber, alien, or otherwise

28 dispose of real or personal property of every kind within the district;

29 (f) make contracts and enter into stipulations of any nature, including contracts and
30 stipulations:

31 (i) to indemnify and save harmless;

32 (ii) to do all acts to exercise the powers granted in this part; and

33 (iii) with any department or agency of the United States of America, of the state, or with
34 any public agency or private person, firm, or corporation upon terms and conditions the board of
35 trustees finds are in the best interests of the district;

36 (g) (i) insure against:

37 (A) loss of revenues from accident or destruction of the system or any part of the system,
38 from any cause whatsoever; or

39 (B) public liability or property damage, or against all other types of events, acts, or
40 omissions; and

41 (ii) provide in the proceedings authorizing the issuance of any bonds for the carrying of
42 any other insurance, in an amount and of such character as may be specified, and for the payment
43 of the premiums on the insurance;

44 (h) provide a public transit system for the transportation of passengers and their incidental
45 baggage;

46 (i) purchase all supplies, equipment, and materials;

47 (j) construct facilities and works, but when the expenditure required exceeds \$25,000
48 construction shall be let by contract to the lowest responsible bidder or proposer;

49 (k) acquire, contract for, lease, construct, own, operate, control, or use rights-of-way, rail
50 lines, monorails, bus lines, stations, platforms, switches, yards, terminals, parking lots, any
51 facilities necessary or convenient for public transit service, and all structures necessary for access
52 by persons and vehicles;

53 (l) hire, lease, or contract for the supplying of, or management of, any facilities, operations,
54 equipment, services, employees, or management staff of any operator and provide for subleases
55 or subcontracts by the operator upon terms that are in the public interest; and

56 (m) operate feeder bus lines and other feeder services as necessary.

57 (3) (a) Bids or proposals shall be advertised through public notice as determined by the
58 board.

59 (b) The notice may include publication in a newspaper of general circulation in the district,
60 trade journal, or other method determined by the board at least once and not less than ten days
61 prior to the expiration of the period within which bids or proposals are received.

62 (c) The board may reject any and all bids or proposals and readvertise or give renote at
63 its discretion.

64 (d) If, after rejecting bids or proposals, the board determines and declares by vote of
65 two-thirds of all its members present that in its opinion the supplies, equipment, and materials may
66 be purchased at a lower price in the open market, the board may proceed to purchase the same in
67 the open market without further observance of the provisions requiring contracts, bids or
68 proposals, advertisement, or notice.

69 (e) Contracts, in writing or otherwise, may be let without advertising for or inviting bids
70 when any repairs, alterations, or other work or the purchase of materials, supplies, equipment, or
71 other property is found by the board upon a two-thirds vote of its members present to be of urgent
72 necessity, or where the general manager certifies by affidavit that there is only one source for the
73 required supplies, equipment, and materials, or construction items.

74 (f) If any payment on a contract with a private contractor to construct facilities under this
75 section is retained or withheld, it shall be retained or withheld and released as provided in Section
76 13-8-5.

77 (4) (a) Installations in state highways or freeways are subject to the approval of the
78 Department of Transportation.

79 (b) It is presumed that the use of the streets, roads, highways, and other public places by
80 the district for any of the purposes permitted in this section constitutes no greater burden on
81 adjoining properties than the uses existing on July 9, 1969.

82 (c) If facilities, other than state highways or freeways referred to in Subsection (2),
83 including streets, roads, highways, pipelines, sewers, water mains, storm drains, poles, and
84 communications wires of another public agency of the state, or of a private owner must be
85 relocated, replaced, or altered in order for the district to construct or operate its system, or to
86 preserve and maintain already constructed district facilities, the facilities shall be relocated,
87 replaced, or altered with reasonable promptness by the respective public corporation, state, or
88 private owner and the district shall by prior agreement reimburse the public corporation, state, or
89 private owner for the reasonable cost incurred in relocation, replacement, or alteration.

90 (d) The district may enter into an agreement with any city or county having jurisdiction
91 over the street, road, or highway involved and, as may be provided by agreement, close any city
92 street or county road at or near the point of its interception with any district facility or provide for
93 carrying the city street or county road over or under or to a connection with the district facility and
94 may do any and all work on the city street or county road as is necessary. A city street or county
95 road may not be closed directly or indirectly by the construction of district facilities except:

96 (i) pursuant to agreement; or

97 (ii) while temporarily necessary during the construction of district facilities.

98 (5) (a) A multicounty district may acquire by eminent domain under Title 78, Chapter 34,
99 Eminent Domain, real and personal property necessary for establishing and operating a district,
100 including a fee simple interest in real property, an easement, an access right, an air right, a
101 right-of-way, and other private property interests.

102 (b) The state, a municipality, or a county may acquire private property interests by eminent
103 domain pursuant to Title 78, Chapter 34, Eminent Domain, including fee simple, easements, air
104 rights, rights-of-way, and other private property interests necessary to the establishment and
105 operation of a public transit district.

Legislative Review Note
as of 11-20-00 12:49 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel