

1 **MUNICIPAL CODE CONDEMNATION**

2 **AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: LaVar Christensen**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies a provision relating to a municipality's purchase, lease, or
10 condemnation of water and waterworks systems.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ establishes a presumption of the value of property in a condemnation proceeding
14 involving the taking of water, a waterworks system, water supply, or connected
15 property; and

16 ▶ prohibits the section amended by this bill from being construed to allow a
17 municipality to condemn a political subdivision or its property.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **10-7-4**, Utah Code Annotated 1953

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

27 Section 1. Section **10-7-4** is amended to read:



28 **10-7-4. Water supply -- Acquisition -- Condemnation -- Protest -- Special election.**

29 (1) The board of commissioners, city council or board of trustees of any city or town
 30 may acquire, purchase or lease all or any part of any water, waterworks system, water supply or
 31 property connected therewith, and whenever the governing body of a city or town shall deem it
 32 necessary for the public good such city or town may bring condemnation proceedings to
 33 acquire the same; provided, that if within thirty days after the passage and publication of a
 34 resolution or ordinance for the purchase or lease or condemnation herein provided for one-third
 35 of the resident taxpayers of the city or town, as shown by the assessment roll, shall protest
 36 against the purchase, lease or condemnation proceedings contemplated, such proposed
 37 purchase, lease or condemnation shall be referred to a special election, and if confirmed by a
 38 majority vote thereat, shall take effect; otherwise it shall be void.

39 (2) In all condemnation proceedings the value of land affected by the taking must be
 40 considered in connection with the water or water rights taken for the purpose of supplying the
 41 city or town or the inhabitants thereof with water.

42 (3) In determining just compensation in a condemnation proceeding under this section
 42a **Ĥ IN A MUNICIPALITY LOCATED IN A COUNTY OF THE FIRST CLASS ĥ**

43 where a determination of market value of what is proposed to be taken is impractical because
 44 there is no meaningful market for what is proposed to be taken, the value shall be Ĥ :

44a **(a) ĥ presumed to**

45 be the amount the owner paid to acquire ownership of what is proposed to be taken, as adjusted
 46 by a change in value due to post-acquisition deterioration and any other factor reasonably and
 47 equitably bearing on the value of what is proposed to be taken Ĥ ; AND

47a **(b) DETERMINED BY APPLYING EQUITABLE CONSIDERATIONS INCLUDING:**

47b **(i) WHETHER THE OWNER WILL BE UNJUSTLY ENRICHED;**

47c **(ii) WHETHER THE OWNER ACQUIRED THE PROPERTY BY EXACTION OR SIMILAR METHOD;**

47d **AND**

47e **(iii) THE EXTENT TO WHICH THE CONSIDERATION THE OWNER PROVIDED IN ACQUIRING**
 47f **THE PROPERTY CONSISTS OF AN OBLIGATION TO MAINTAIN THE PROPERTY AND WHETHER THAT**
 47g **OBLIGATION WILL BE ASSUMED BY THE MUNICIPALITY BECAUSE OF THE CONDEMNATION ĥ .**

48 (4) This section may not be construed to provide the basis for a municipality's
 49 condemnation of a political subdivision of the state or of the political subdivision's property or
 50 holdings.

Legislative Review Note
 as of 2-2-04 7:04 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0147

Municipal Code Condemnation

13-Feb-04

10:37 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst

