

Senator David L. Gladwell proposes the following substitute bill:

COUNTY POWERS AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

LONG TITLE

General Description:

This bill modifies a provision relating to the powers of counties.

Highlighted Provisions:

This bill:

- ▶ clarifies that a county's acquisition of real property by condemnation is as provided in general eminent domain statutory provisions;

- ▶ modifies a provision limiting how a provision regarding a county's condemnation authority may be construed; and

- ▶ provides that water rights that are not appurtenant to land are not real property subject to condemnation by a county.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-50-302, as last amended by Chapter 211, Laws of Utah 2003

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



26 Section 1. Section 17-50-302 is amended to read:

27 **17-50-302. General county powers.**

28 (1) A county may:

29 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
30 collect special assessments for benefits conferred; and

31 (b) provide services, exercise powers, and perform functions that are reasonably related
32 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
33 statute.

34 (2) (a) A county may:

35 (i) sue and be sued;

36 (ii) acquire real property by tax sale, purchase, lease, contract, or gift, [~~or~~
37 ~~condemnation;~~] and hold the real property as necessary and proper for county purposes;

38 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
39 provided in Title 78, Chapter 34, Eminent Domain; and

40 (B) hold the real property as necessary and proper for county purposes;

41 [~~(iii)~~] (iv) as may be necessary to the exercise of its powers, acquire personal property
42 by purchase, lease, contract, or gift, and hold such personal property; and

43 [~~(iv)~~] (v) manage and dispose of its property as the interests of its inhabitants may
44 require.

45 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
46 land do not constitute real property that may be acquired by the county through condemnation.

47 [~~(b)~~] (ii) Nothing in Subsection (2)(a)[~~(ii)~~](iii) may be construed to authorize a county
48 to acquire by condemnation the rights to water [~~used in agricultural production~~] unless the land
49 to which those water rights are appurtenant is acquired by condemnation.