

**USE OF EMINENT DOMAIN**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Aaron Tilton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill modifies provisions related to the uses for which eminent domain may be exercised.

**Highlighted Provisions:**

This bill:

- ▶ narrows the uses for which local governments may acquire roads, streets, or alleys by eminent domain; and
- ▶ provides that the roads, streets, or alleys that local governments may acquire by eminent domain do not include trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**78-34-1**, as last amended by Chapter 164, Laws of Utah 1981

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

Section 1. Section **78-34-1** is amended to read:



**78-34-1. Uses for which right may be exercised.**

Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses:

(1) All public uses authorized by the Government of the United States.

(2) Public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature.

(3) Public buildings and grounds for the use of any county, city or incorporated town, or board of education; reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water for the use of the inhabitants of any county or city or incorporated town, or for the draining of any county, city or incorporated town; the raising of the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels; roads, streets, and alleys for public vehicular use, excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses; and all other public uses for the benefit of any county, city or incorporated town, or the inhabitants thereof.

(4) Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

(5) Reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar evaporation ponds and other facilities for the recovery of minerals in solution.

(6) Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines, quarries, coal mines or mineral deposits including minerals in solution; outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution; mill dams; gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection therewith such other interests in property as may be required adequately to examine, prepare, maintain, and operate such underground natural gas storage facilities; and

solar evaporation ponds and other facilities for the recovery of minerals in solution; also any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter.

(7) Byroads leading from highways to residences and farms.

(8) Telegraph, telephone, electric light and electric power lines, and sites for electric light and power plants.

(9) Sewerage of any city or town, or of any settlement of not less than ten families, or of any public building belonging to the state, or of any college or university.

(10) Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat.

(11) Cemeteries and public parks.

(12) Pipe lines for the purpose of conducting any and all liquids connected with the manufacture of beet sugar.

(13) Sites for mills, smelters or other works for the reduction of ores and necessary to the successful operation thereof, including the right to take lands for the discharge and natural distribution of smoke, fumes and dust therefrom, produced by the operation of such works; provided, that the powers granted by this subdivision shall not be exercised in any county where the population exceeds twenty thousand, or within one mile of the limits of any city or incorporated town; nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least [~~seventy-five per cent~~] 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of said four-mile radius; nor as to lands covered by contracts, easements or agreements existing between the condemner and the owner of land within said limit and providing for the operation of such mill, smelter or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter or other works for the reduction of ores.

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**Legislative Review Note**

**as of 1-11-06 9:33 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0292**

Use of Eminent Domain

25-Jan-06  
11:27 AM

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**State Impact**  
No fiscal impact.

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**Individual and Business Impact**  
No fiscal impact.

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Office of the Legislative Fiscal Analyst