

**Representative Ralph Becker** proposes the following substitute bill:

**EMINENT DOMAIN**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Aaron Tilton**

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

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to eminent domain.

**Highlighted Provisions:**

This bill:

- ▶ modifies a provision relating to public uses for which eminent domain may be used

to:

- eliminate bicycle paths and sidewalks adjacent to paved roads as a public use for which eminent domain may be used; and
- eliminate language limiting which roads, streets, and alleys constitute a public use for which eminent domain may be used.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78-34-1**, as last amended by Chapter 358, Laws of Utah 2006

---

---



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

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

28 **78-34-1. Uses for which right may be exercised.**

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

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

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

34 (3) Public buildings and grounds for the use of any county, city or incorporated town,  
35 or board of education; reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting  
36 water for the use of the inhabitants of any county or city or incorporated town, or for the  
37 draining of any county, city or incorporated town; the raising of the banks of streams, removing  
38 obstructions therefrom, and widening, deepening or straightening their channels; ~~bicycle paths  
39 and sidewalks adjacent to paved roads;~~ roads, streets and alleys ~~[for public vehicular use,  
40 excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other  
41 recreational uses];~~ and all other public uses for the benefit of any county, city or incorporated  
42 town, or the inhabitants thereof.

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

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

51 (6) Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to  
52 facilitate the milling, smelting or other reduction of ores, or the working of mines, quarries,  
53 coal mines or mineral deposits including minerals in solution; outlets, natural or otherwise,  
54 for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for  
55 the reduction of ores, or from mines, quarries, coal mines or mineral deposits including  
56 minerals in solution; mill dams; gas, oil or coal pipelines, tanks or reservoirs, including any

57 subsurface stratum or formation in any land for the underground storage of natural gas, and in  
58 connection therewith such other interests in property as may be required adequately to  
59 examine, prepare, maintain, and operate such underground natural gas storage facilities; and  
60 solar evaporation ponds and other facilities for the recovery of minerals in solution; also any  
61 occupancy in common by the owners or possessors of different mines, quarries, coal mines,  
62 mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the  
63 flow, deposit or conduct of tailings or refuse matter.

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

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

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

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

72 (11) Cemeteries and public parks.

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

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

