

Representative Aaron Tilton proposes the following substitute bill:

EMINENT DOMAIN AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Tilton

Senate Sponsor: Darin G. Peterson

LONG TITLE

General Description:

This bill modifies provisions relating to eminent domain.

Highlighted Provisions:

This bill:

▶ clarifies an exclusion from a public use relating to trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses for which eminent domain may not be used;

▶ excludes emergency access ways as a public use for which eminent domain may be used; and

▶ excludes certain parks from the scope of what is a public use for purposes of eminent domain.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-501, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

Section 1. Section **78B-6-501** is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised.

Subject to the provisions of this part, the right of eminent domain may be exercised on 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) (a) public buildings and grounds for the use of any county, city [~~or incorporated~~], town, or board of education;

(b) 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;

(c) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(d) bicycle paths and sidewalks adjacent to paved roads;

(e) roads, streets, and alleys for public vehicular use, excluding:

(i) trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; and

(ii) paths, lanes, or other ways for emergency access; and

(f) all other public uses for the benefit of any county, city, or [~~incorporated~~] town, or its inhabitants[-];

(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

57 evaporation ponds and other facilities for the recovery of minerals in solution[-];

58 (6) (a) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
59 to facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries,
60 coal mines, or mineral deposits including minerals in solution;

61 (b) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
62 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
63 mines or mineral deposits including minerals in solution;

64 (c) mill dams;

65 (d) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
66 formation in any land for the underground storage of natural gas, and in connection with that,
67 any other interests in property which may be required to adequately examine, prepare,
68 maintain, and operate underground natural gas storage facilities;

69 (e) solar evaporation ponds and other facilities for the recovery of minerals in solution;
70 and

71 (f) any occupancy in common by the owners or possessors of different mines, quarries,
72 coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any
73 place for the flow, deposit or conduct of tailings or refuse matter[-];

74 (7) byroads leading from highways to residences and farms[-];

75 (8) telegraph, telephone, electric light and electric power lines, and sites for electric
76 light and power plants[-];

77 (9) sewerage of any city or town, or of any settlement of not less than ten families, or
78 of any public building belonging to the state, or of any college or university[-];

79 (10) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
80 storing water for the operation of machinery for the purpose of generating and transmitting
81 electricity for power, light or heat[-];

82 (11) cemeteries and public parks[-], except for a park whose primary use is:

83 (a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

84 (b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
85 equestrian use;

86 (12) pipe lines for the purpose of conducting any and all liquids connected with the
87 manufacture of beet sugar[-]; and

88 (13) sites for mills, smelters or other works for the reduction of ores and necessary to
89 their successful operation, including the right to take lands for the discharge and natural
90 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the
91 powers granted by this subsection may not be exercised in any county where the population
92 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the
93 proposed condemner has the right to operate by purchase, option to purchase or easement, at
94 least 75% in value of land acreage owned by persons or corporations situated within a radius of
95 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits
96 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing
97 between the condemner and the owner of land within the limit and providing for the operation
98 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have
99 been commenced to restrain the operation of such mill, smelter, or other works for the
100 reduction of ores.

H.B. 323 1st Sub. (Buff) - Eminent Domain Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
