

PUBLIC UTILITY EASEMENT AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies a provision relating to public utility easements.

Highlighted Provisions:

This bill:

- ▶ defines "protected utility easement";
- ▶ provides that a person may not acquire an interest in a public utility easement or protected utility easement that is adverse to or interferes with the public utility's full use of the easement; and

- ▶ provides that a gas corporation's ~~S→~~ ~~H→~~ [or] , ~~←H~~ electric corporation's ~~←S~~ ~~H→~~ , or telephone corporation's ~~←H~~ failure to possess,

occupy, or use a protected utility easement does not diminish or extinguish the ~~H→~~ [gas] ~~←H~~ corporation's ~~H→~~ [~~S→~~ or electric corporation's ~~←S~~] ~~←H~~ rights under the easement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-3-27, as last amended by Laws of Utah 2007, Chapter 268

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



S.B. 269

28 Section 1. Section 54-3-27 is amended to read:

29 **54-3-27. Public utility easement.**

30 (1) As used in this section[~~,"public~~];

31 (a) "Protected utility easement" means a recorded easement or right-of-way:

32 (i) for the use and installation of a utility facility; and

33 (ii) the ownership of which a gas corporation ~~S~~→ ~~H~~→ [or] , ←~~H~~ electric

33a1 corporation ←~~S~~ ~~H~~→ , or telephone corporation ←~~H~~ acquires and

33a holds by any lawful means.

34 (b) "Public utility easement" means the area on a recorded plat map or other recorded
35 document that is dedicated to the use and installation of public utility facilities.

36 (2) (a) A public utility easement provides a public utility with:

37 (i) the right to install, maintain, operate, repair, remove, replace, or relocate public
38 utility facilities; and

39 (ii) the rights of ingress and egress within the public utility easement for public utility
40 employees, contractors, and agents.

41 (b) Notwithstanding Subsection (3), a public utility shall restore or repair, at the
42 expense of the public utility, any fence, grass, soil, shrubbery, bushes, flowers, other low level
43 vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt damaged or
44 displaced from the exercise of the easement rights described in Subsection (2)(a).

45 (3) Except as provided in Subsection (2)(b), if a property owner places improvements
46 to land that interfere with the easement rights described in Subsection (2)(a), the property
47 owner shall bear the risk of loss or damage to those improvements resulting from the exercise
48 of the easement rights described in Subsection (2)(a).

49 (4) (a) Except as provided in Subsection (4)(b), a public utility easement is
50 nonexclusive and may be used by more than one public utility.

51 (b) Notwithstanding Subsection (4)(a), a public utility may not:

52 (i) interfere with any facility of another public utility within the public utility easement;
53 or

54 (ii) infringe on the legally required distances of separation between public utility
55 facilities required by federal, state, or local law.

56 (5) A subdivision plat that includes a public utility easement may not be approved by a
57 county or municipality unless the subdivider has provided the county or municipality proof that
58 the subdivider has, as a courtesy, previously notified each public utility that is anticipated to

59 provide service to the subdivision.

60 (6) A person may not acquire, whether by adverse possession, prescription,

60a **§→ acquiescence, ←§ or**

61 otherwise, any right, title, or interest in a public utility easement or protected utility easement

62 that is adverse to or interferes with a public utility's full use of the easement for the purposes

63 for which the easement was created.

64 (7) A gas corporation's §→ ~~§~~ [or], ←~~§~~ electric corporation's ←§ ~~§~~ , or telephone

64a1 corporation's ←~~§~~ failure to possess, occupy, or use

64a a protected utility easement

65 does not diminish or extinguish any right that the gas corporation §→ ~~§~~ [or], ←~~§~~ electric

65a1 corporation ←§ ~~§~~ , or telephone corporation ←~~§~~

65a has under the easement.

65b **§→ (8) Nothing in this section may be construed to affect the right of a condemnor to**

65c **condemn a public utility easement as provided by law. ←§**

Legislative Review Note
as of 2-16-09 6:56 AM

Office of Legislative Research and General Counsel

S.B. 269 - Public Utility Easement Amendments

Fiscal Note

2009 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 or local governments. Certain businesses may benefit from rights clarified in this bill.
