

EMINENT DOMAIN REVISIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill amends provisions relating to the right to exercise eminent domain.

Highlighted Provisions:

This bill:

- ▶ authorizes an entity to exercise eminent domain for:
 - a byroad leading from a highway to an existing or proposed residence, development, or farm; or
 - sewage service for an existing or proposed development; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-501, as last amended by Laws of Utah 2008, Chapter 341 and renumbered and amended by Laws of Utah 2008, Chapter 3

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

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



28 **78B-6-501. Eminent domain -- Uses for which right may be exercised.**

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

31 (1) all public uses authorized by the [~~Government of the United States~~] federal
32 government;

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

35 (3) (a) public buildings and grounds for the use of any county, city, town, or board of
36 education;

37 (b) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water for the
38 use of the inhabitants of any county, city, or town, or for the draining of any county, city, or
39 town;

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

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

43 (e) roads, streets, and alleys for public vehicular use, excluding trails, paths, or other
44 ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose
45 primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; and

46 (f) all other public uses for the benefit of any county, city, or town, or its inhabitants;

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

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

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

58 (b) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water

- 59 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
60 mines or mineral deposits including minerals in solution;
- 61 (c) mill dams;
- 62 (d) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
63 formation in any land for the underground storage of natural gas, and in connection with that,
64 any other interests in property which may be required to adequately examine, prepare,
65 maintain, and operate underground natural gas storage facilities;
- 66 (e) solar evaporation ponds and other facilities for the recovery of minerals in solution;
67 and
- 68 (f) any occupancy in common by the owners or possessors of different mines, quarries,
69 coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any
70 place for the flow, deposit or conduct of tailings or refuse matter;
- 71 (7) byroads leading from [~~highways~~] a highway to [~~residences and farms;~~] an existing
72 or proposed:
- 73 (a) residence;
- 74 (b) development; or
- 75 (c) farm;
- 76 (8) telegraph, telephone, electric light and electric power lines, and sites for electric
77 light and power plants;
- 78 (9) [~~sewerage of any~~] sewage service for:
- 79 (a) a city or town [~~, or of any settlement of not less than 10 families, or of any~~];
- 80 (b) an existing or proposed development;
- 81 (c) a public building belonging to the state [~~, or of any~~]; or
- 82 (d) a college or university;
- 83 (10) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
84 storing water for the operation of machinery for the purpose of generating and transmitting
85 electricity for power, light or heat;
- 86 (11) cemeteries and public parks, except for a park whose primary use is:
- 87 (a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or
- 88 (b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
89 equestrian use;

90 (12) pipe lines for the purpose of conducting any and all liquids connected with the
91 manufacture of beet sugar; and

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

Legislative Review Note
as of 1-29-10 4:17 PM

Office of Legislative Research and General Counsel

S.B. 122 - Eminent Domain Revisions

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Local governments, businesses, and individuals may be financially impacted by eminent domain rights extended in this bill.
