

**EMINENT DOMAIN REVISIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Michael T. Morley

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-6-501**, as last amended by Laws of Utah 2010, Chapter 401

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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



28 behalf of the following public uses:

29 (1) all public uses authorized by the federal government;

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

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

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

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

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

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

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

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

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

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

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

58 (c) mill dams;

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

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

65 (f) any occupancy in common by the owners or possessors of different mines, quarries,  
66 coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any  
67 place for the flow, deposit or conduct of tailings or refuse matter;

68 (7) byroads leading from a highway to [~~an existing or proposed~~]:

69 (a) a residence;

70 (b) a development; or

71 (c) a farm;

72 (8) telegraph, telephone, electric light and electric power lines, and sites for electric  
73 light and power plants;

74 (9) sewage service for:

75 (a) a city, a town, or any settlement of not less than 10 families;

76 (b) [~~an existing or proposed~~] a development;

77 (c) a public building belonging to the state; or

78 (d) a 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]~~ section may not be exercised in any county where the  
92 population exceeds 20,000, or within one mile of the limits of any city or incorporated town  
93 nor unless the proposed condemner has the right to operate by purchase, option to purchase or  
94 easement, at least 75% in value of land acreage owned by persons or corporations situated  
95 within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor  
96 beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or  
97 agreements existing between the condemner and the owner of land within the limit and  
98 providing for the operation of such mill, smelter, or other works for the reduction of ores; nor  
99 until an action shall have been commenced to restrain the operation of such mill, smelter, or  
100 other works for the reduction of ores.

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**Legislative Review Note**  
as of 2-8-11 9:00 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 271

SHORT TITLE: Eminent Domain Revisions

SPONSOR: **Adams, J. S.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local governments may be financially impacted by eminent domain rights extended in this bill.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Businesses and individuals may be financially impacted by eminent domain rights extended in this bill.