

Representative Gage Froerer proposes the following substitute bill:

PROPERTY RIGHTS MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates guidelines for an exception to eminent domain actions regarding trails, paths, and walkways in a municipality.

Highlighted Provisions:

This bill:

- ▶ creates an exception to the prohibition on eminent domain for trails, paths, and other recreational uses;
- ▶ provides specific guidelines for the exception; and
- ▶ sets parameters for the municipality to make decisions and work with the property owner.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-501.5, Utah Code Annotated 1953



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

27 Section 1. Section **78B-6-501.5** is enacted to read:

28 **78B-6-501.5. Exception for trails, paths, and other ways for walking, bicycling,**
29 **and equestrian use.**

30 (1) Notwithstanding Subsections 78B-6-501(3)(e) and (11), a municipality may acquire
31 private property by eminent domain for a trail, path, or other way for walking, hiking,
32 bicycling, or equestrian use if:

33 (a) after consultation with the property owner, the municipality has determined on the
34 record that the segment of a trail, path, or other way is essential to connect or complete a
35 discrete portion of the municipality's master planned urban trail system, the acquisition of
36 which is at least 70% complete;

37 (b) when combined with any other trail, path or other way for walking, hiking,
38 bicycling, or equestrian use authorized or created under this Section, requires no more than
39 one-half mile in trail length in the aggregate from an individual property owner, including its
40 parent, subsidiary, or related owned entities, regardless of the number of trails or trail segments
41 within the municipality's urban trail system;

42 (c) the property to be acquired by the municipality is within:

43 (i) the incorporated boundary of the municipality;

44 (ii) the annexation boundaries identified in the current annexation policy plan that the
45 municipality has adopted pursuant to Section 10-2-401.5, unless the property owner or its
46 parent, subsidiary, or related owned entities provides a majority of municipal services on its
47 property; or

48 (iii) an area the municipality has continuously provided one or more municipal-type
49 services for at least one year;

50 (d) the municipality has, after obtaining input from the property owner, adopted the
51 least disruptive trail segment alignment for the property owner consistent with the
52 municipality's reasonable objectives for the public investment in the trail system; and

53 (e) if requested by the property owner, the municipality has agreed to install screening
54 or fencing on the owner's property at the municipality's expense to protect the property owner's
55 reasonable expectation of privacy and security.

56 (2) Any condemnation for a trail, path, or other way for walking, hiking or equestrian

57 use shall be subordinate to competing public uses under Section 78B-6-501.