

PUBLIC USE TRAILS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill enacts provisions authorizing the use of eminent domain for certain trails, paths, or walkways.

Highlighted Provisions:

This bill:

- ▶ enacts provisions authorizing the use of eminent domain for certain trails, paths, or walkways; 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 2012, Chapter 264

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.

(1) Subject to the provisions of this part, the right of eminent domain may be exercised



28 on behalf of the following public uses:

29 ~~[(+)]~~ (a) all public uses authorized by the federal government;

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

32 ~~[(3)-(a)]~~ (c) (i) public buildings and grounds for the use of any county, city, town, or
33 board of education;

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

37 ~~[(e)]~~ (iii) the raising of the banks of streams, removing obstructions from streams, and
38 widening, deepening, or straightening their channels;

39 ~~[(+)]~~ (iv) bicycle paths and sidewalks adjacent to paved roads;

40 ~~[(e)]~~ (v) roads, streets, and alleys for public vehicular use, excluding and subject to
41 Subsection (2) trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or
42 other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle
43 path, or walkway; and

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

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

50 ~~[(5)]~~ (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and
51 pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of
52 ores, 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)]~~ (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping
56 places to access or facilitate the milling, smelting, or other reduction of ores, or the working of
57 mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

58 ~~[(b)]~~ (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or

59 water from mills, smelters or other works for the reduction of ores, or from mines, quarries,
60 coal mines or mineral deposits including minerals in solution;

61 ~~(c)~~ (iii) mill dams;

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

66 ~~(e)~~ (v) solar evaporation ponds and other facilities for the recovery of minerals in
67 solution; and

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

71 ~~(7)~~ (g) byroads leading from a highway to:

72 ~~(a)~~ (i) a residence;

73 ~~(b)~~ (ii) a development; or

74 ~~(c)~~ (iii) a farm;

75 ~~(8)~~ (h) telegraph, telephone, electric light and electric power lines, and sites for
76 electric light and power plants;

77 ~~(9)~~ (i) sewage service for:

78 ~~(a)~~ (i) a city, a town, or any settlement of not ~~[less]~~ fewer than 10 families;

79 ~~(b)~~ (ii) a development;

80 ~~(c)~~ (iii) a public building belonging to the state; or

81 ~~(d)~~ (iv) a college or university;

82 ~~(10)~~ (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying
83 and storing water for the operation of machinery for the purpose of generating and transmitting
84 electricity for power, light or heat;

85 ~~(11)~~ (k) cemeteries and public parks, except for a park whose primary use is:

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

87 or

88 ~~(b)~~ (ii) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
89 equestrian use;

90 ~~[(12)]~~ (l) pipelines for the purpose of conducting any and all liquids connected with the
91 manufacture of beet sugar; and

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

105 (2) (a) The right of eminent domain may be exercised on behalf of a trail, foot path,
106 equestrian trail, bicycle path, or walkway if the trail, path, or walkway is:

107 (i) located within:

108 (A) the boundaries of a first or second class city; or

109 (B) the utility service area of a first or second class city; and

110 (ii) included in:

111 (A) a plan of a state agency; or

112 (B) a regional transportation plan adopted by a metropolitan planning organization as
113 defined in Section 72-1-208.5.

114 (b) Notwithstanding Subsection (2)(a), the right of eminent domain may not be
115 exercised for a trail, path, or walkway described in Subsection (2)(a) if the trail, path, or
116 walkway is located on property that qualifies for an agricultural use assessment in accordance
117 with Section 59-2-503.

Legislative Review Note
as of 2-13-13 11:40 AM

Office of Legislative Research and General Counsel