

EMINENT DOMAIN AND PUBLIC RECREATION

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill prohibits the use of eminent domain for a golf course.

Highlighted Provisions:

This bill:

- ▶ prohibits the use of eminent domain for a golf course.

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 2013, Chapter 327

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 on

behalf of the following public uses:

⌠→ **[(1)] (a)** ⌠←⌠ all public uses authorized by the federal government;

⌠→ **[(2)] (b)** ⌠←⌠ public buildings and grounds for the use of the state, and all other public uses



28 authorized by the Legislature;

29 ~~Ĥ~~→ [(3)-(a)] (c)(i) ←~~Ĥ~~ public buildings and grounds for the use of any county, city,
29a town, or board of
30 education;

31 ~~Ĥ~~→ [(b)] (ii) ←~~Ĥ~~ reservoirs, canals, aqueducts, flumes, ditches, or pipes for
31a conducting water or
32 sewage, including to or from a development, for the use of the inhabitants of any county, city,
33 or town, or for the draining of any county, city, or town;

34 ~~Ĥ~~→ [(e)] (iii) ←~~Ĥ~~ the raising of the banks of streams, removing obstructions from
34a streams, and
35 widening, deepening, or straightening their channels;

36 ~~Ĥ~~→ [(d)] (iv) ←~~Ĥ~~ bicycle paths and sidewalks adjacent to paved roads;

37 ~~Ĥ~~→ [(e)] (v) ←~~Ĥ~~ roads, byroads, streets, and alleys for public vehicular use, including
37a for access to a
38 development, excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian
39 use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail,
40 bicycle path, or walkway; and

41 ~~Ĥ~~→ [(f)] (vi) ←~~Ĥ~~ all other public uses for the benefit of any county, city, or town, or its
41a inhabitants;

42 ~~Ĥ~~→ [(4)] (d) ←~~Ĥ~~ wharves, docks, piers, chutes, booms, ferries, bridges, toll roads,
42a byroads, plank
43 and turnpike roads, roads for transportation by traction engines or road locomotives, roads for
44 logging or lumbering purposes, and railroads and street railways for public transportation;

45 ~~Ĥ~~→ [(5)] (e) ←~~Ĥ~~ reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts
45a and pipes
46 for the supplying of persons, mines, mills, smelters or other works for the reduction of ores,
47 with water for domestic or other uses, or for irrigation purposes, or for the draining and
48 reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar
49 evaporation ponds and other facilities for the recovery of minerals in solution;

50 ~~Ĥ~~→ [(6)-(a)] (f)(i) ←~~Ĥ~~ roads, railroads, tramways, tunnels, ditches, flumes, pipes, and
50a dumping places
51 to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines,
52 quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

53 ~~Ĥ~~→ [(b)] (ii) ←~~Ĥ~~ outlets, natural or otherwise, for the deposit or conduct of tailings,

53a refuse or water
54 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
55 mines or mineral deposits including minerals in solution;
56 ~~Ĥ→ [(e)]~~ (iii) ←Ĥ mill dams;
57 ~~Ĥ→ [(d)]~~ (iv) ←Ĥ gas, oil or coal pipelines, tanks or reservoirs, including any subsurface
57a stratum or
58 formation in any land for the underground storage of natural gas, and in connection with that,



59 any other interests in property which may be required to adequately examine, prepare,
60 maintain, and operate underground natural gas storage facilities;
61 ~~Ĥ~~→ [(e)] (v) ←Ĥ solar evaporation ponds and other facilities for the recovery of minerals
61a in solution;
62 and
63 ~~Ĥ~~→ [(f)] (vi) ←Ĥ any occupancy in common by the owners or possessors of different
63a mines, quarries,
64 coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any
65 place for the flow, deposit or conduct of tailings or refuse matter;
66 ~~Ĥ~~→ [(7)] (g) ←Ĥ byroads leading from a highway to:
67 ~~Ĥ~~→ [(a)] (i) ←Ĥ a residence; or
68 ~~Ĥ~~→ [(b)] (ii) ←Ĥ a farm;
69 ~~Ĥ~~→ [(8)] (h) ←Ĥ telegraph, telephone, electric light and electric power lines, and sites
69a for electric
70 light and power plants;
71 ~~Ĥ~~→ [(9)] (i) ←Ĥ sewage service for:
72 ~~Ĥ~~→ [(a)] (i) ←Ĥ a city, a town, or any settlement of not fewer than 10 families;
73 ~~Ĥ~~→ [(b)] (ii) ←Ĥ a public building belonging to the state; or
74 ~~Ĥ~~→ [(e)] (iii) ←Ĥ a college or university;
75 ~~Ĥ~~→ [(10)] (j) ←Ĥ canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for
75a supplying and
76 storing water for the operation of machinery for the purpose of generating and transmitting
77 electricity for power, light or heat;
78 ~~Ĥ~~→ [(11)] (k) ←Ĥ cemeteries and public parks, except for a park whose primary use is:
79 ~~Ĥ~~→ [(a)] (i) ←Ĥ as a trail, path, or other way for walking, hiking, bicycling, or equestrian
79a use; [or]
80 ~~Ĥ~~→ [(b)] (ii) ←Ĥ to connect other trails, paths, or other ways for walking, hiking,
80a bicycling, or
81 equestrian use; or
82 ~~Ĥ~~→ [(e)] (iii) **except as provided in Subsection (2),** ←Ĥ as a golf course;
83 ~~Ĥ~~→ [(12)] (l) ←Ĥ pipelines for the purpose of conducting any and all liquids connected
83a with the
84 manufacture of beet sugar; and
85 ~~Ĥ~~→ [(13)] (m) ←Ĥ sites for mills, smelters or other works for the reduction of ores and
85a necessary to
86 their successful operation, including the right to take lands for the discharge and natural
87 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the
88 powers granted by this section may not be exercised in any county where the population
89 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the

90 proposed condemner has the right to operate by purchase, option to purchase or easement, at
91 least 75% in value of land acreage owned by persons or corporations situated within a radius of
92 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits
93 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing
94 between the condemner and the owner of land within the limit and providing for the operation
95 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have
96 been commenced to restrain the operation of such mill, smelter, or other works for the
97 reduction of ores.

97a **Ĥ→ (2) Subsection (1)(k)(iii) does not apply to an exercise of eminent domain by the**
97b **Department of Transportation to acquire property intended, in whole or in part, for use as a**
97c **golf course if the property acquired by eminent domain is needed:**

97d **(a)(i) to exchange for other real property that is devoted to or held for public use; and**

97e **(ii) for a state transportation purpose; or**

97f **(b) to mitigate the impacts of a public transportation project. ←Ĥ**

Legislative Review Note

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Office of Legislative Research and General Counsel

