

**Representative Tim Quinn** proposes the following substitute bill:

**PROPERTY RIGHTS AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tim Quinn**

Senate Sponsor: Daniel Hemmert

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**LONG TITLE**

**General Description:**

This bill addresses the determination of just compensation in certain eminent domain proceedings.

**Highlighted Provisions:**

This bill:

- ▶ provides that a court, jury, or referee determining just compensation may consider certain evidence;
- ▶ prohibits consideration of the assessed value on a property tax assessment except in certain circumstances; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-6-511**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

27 Section 1. Section **78B-6-511** is amended to read:

28 **78B-6-511. Compensation and damages -- How assessed.**

29 (1) The court, jury, or referee shall hear any legal evidence offered by any of the parties  
30 to the proceedings, and determine and assess:

31 ~~[(1)]~~ (a) (i) the value of the property sought to be condemned and all improvements  
32 pertaining to the realty;

33 ~~[(b)]~~ (ii) the value of each and every separate estate or interest in the property; and

34 ~~[(c)]~~ (iii) if it consists of different parcels, the value of each parcel and of each estate or  
35 interest in each shall be separately assessed;

36 ~~[(2)]~~ (b) if the property sought to be condemned constitutes only a part of a larger  
37 parcel, the damages which will accrue to the portion not sought to be condemned by reason of  
38 its severance from the portion sought to be condemned and the construction of the  
39 improvement in the manner proposed by the plaintiff;

40 ~~[(3)]~~ (c) if the property, though no part of it is taken, will be damaged by the  
41 construction of the proposed improvement, and the amount of the damages;

42 ~~[(4)]~~ (d) separately, how much the portion not sought to be condemned, and each estate  
43 or interest in it, will be benefitted, if at all, by the construction of the improvement proposed by  
44 the plaintiff~~[-Hf]~~, provided that if the benefit is equal to the damages assessed under Subsection  
45 ~~[(2)]~~ (1)(b), the owner of the parcel shall be allowed no compensation except the value of the  
46 portion taken; but if the benefit is less than the damages assessed, the former shall be deducted  
47 from the latter, and the remainder shall be the only damages allowed in addition to the value of  
48 the portion taken;

49 ~~[(5)]~~ (e) if the property sought to be condemned consists of water rights or part of a  
50 water delivery system or both, and the taking will cause present or future damage to or  
51 impairment of the water delivery system not being taken, including impairment of the system's  
52 carrying capacity, an amount to compensate for the damage or impairment; and

53 ~~[(6)]~~ (f) if land on which crops are growing at the time of service of summons is sought  
54 to be condemned, the value that those crops would have had after being harvested, taking into  
55 account the expenses that would have been incurred cultivating and harvesting the crops~~[-and]~~.

56 ~~[(7)] as far as practicable compensation shall be assessed for each source of damages~~

57 separately.]

58 (2) (a) In determining the market value of the property before the taking and the market  
59 value of the property after the taking to assess damages in partial takings cases as described in  
60 Subsection (1)(b), the court, jury, or referee:

61 (i) may consider anything a willing buyer would consider in determining the market  
62 value of the property after the taking, including:

63 (A) any impact from the public project for which the property was taken; and

64 (B) the access to the property that exists after the taking; and

65 (ii) may not consider the assessed value on the property tax assessment for the property  
66 unless the court determines that the assessed value on the property tax assessment constitutes  
67 an admission by a party opponent.

68 (b) Subsection (2)(a) does not preclude the court, jury, or referee from considering the  
69 access to the property that existed before the taking in determining the value of the property  
70 before the taking.