

Senator Daniel Hemmert proposes the following substitute bill:

PROPERTY RIGHTS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim Quinn

Senate Sponsor: Daniel Hemmert

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



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) 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 (a) may consider everything a willing buyer and a willing seller would consider in
62 determining the market value of the property after the taking; and

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