

Representative Mike Winder proposes the following substitute bill:

TRAIL IMPROVEMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses circumstances for which eminent domain may used for trails.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ consolidates uses for which the eminent domain right may not be exercised;
- ▶ allows for the exercise of eminent domain for trails meeting certain criteria; and
- ▶ makes technical changes.

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 2014, Chapter 59

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

Section 1. Section **78B-6-501** is amended to read:



26 **78B-6-501. Eminent domain -- Uses for which right may be exercised.**

27 [Subject] (1) (a) As used in this section, "century farm" means real property that is:

28 (i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

29 (ii) owned or held by the same family for a continuous period of 100 years or more.

30 (b) "Century farm" includes real property designated as a century farm and ranch by the
31 Utah Farm Bureau Federation.

32 (2) Except as provided in Subsection (3) and subject to the provisions of this part, the
33 right of eminent domain may be exercised on behalf of the following public uses:

34 ~~[(1)]~~ (a) ~~[aH]~~ public uses authorized by the federal government;

35 ~~[(2)]~~ (b) public buildings and grounds for the use of the state, and ~~[aH]~~ other public uses
36 authorized by the Legislature;

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

39 ~~[(b)]~~ (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
40 sewage, including to or from a development, for the use of the inhabitants of any county, city, or
41 town, or for the draining of any county, city, or town;

42 ~~[(c)]~~ (iii) the raising of the banks of streams, removing obstructions from streams, and
43 widening, deepening, or straightening their channels;

44 ~~[(d)]~~ (iv) bicycle paths and sidewalks adjacent to paved roads;

45 ~~[(e)]~~ (v) roads, byroads, streets, and alleys for public vehicular use, including for
46 access to a development~~[-, excluding trails, paths, or other ways for walking, hiking, bicycling,~~
47 ~~equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian~~
48 ~~trail, bicycle path, or walkway]; and~~

49 ~~[(f)]~~ (vi) ~~[aH]~~ other public uses for the benefit of any county, city, or town, or ~~[its]~~ the
50 county's, city's, or town's inhabitants;

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

54 ~~[(5)]~~ (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and
55 pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of
56 ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and
57 reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of

58 minerals in solution;

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

62 ~~[(b)]~~ (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or
63 water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
64 mines or mineral deposits including minerals in solution;

65 ~~[(c)]~~ (iii) mill dams;

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

70 ~~[(e)]~~ (v) solar evaporation ponds and other facilities for the recovery of minerals in
71 solution; and

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

75 ~~[(7)]~~ (g) byroads leading from a highway to:

76 ~~[(a)]~~ (i) a residence; or

77 ~~[(b)]~~ (ii) a farm;

78 ~~[(8)]~~ (h) telecommunications, electric light and electric power lines, sites for electric
79 light and power plants, or sites for the transmission of broadcast signals from a station licensed
80 by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that
81 provides emergency broadcast services;

82 ~~[(9)]~~ (i) sewage service for:

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

84 ~~[(b)]~~ (ii) a public building belonging to the state; or

85 ~~[(c)]~~ (iii) a college or university;

86 ~~[(10)]~~ (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying
87 and storing water for the operation of machinery for the purpose of generating and transmitting
88 electricity for power, light or heat;

89 ~~[(11)]~~ (k) cemeteries and public parks~~[-except for a park whose primary use is: (a) as~~

90 a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or (b) to connect
91 other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use]; and

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

105 (3) The right of eminent domain may not be exercised on behalf of the following uses:

106 (a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking,
107 hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a
108 foot path, equestrian trail, bicycle path, or walkway; or

109 (b) a public park whose primary purpose is:

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

111 (ii) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
112 equestrian use.

113 (4) (a) As used in this Subsection (4):

114 (i) "Municipality" means the same as that term is defined in Section [10-1-104](#).

115 (ii) "Regionally significant trail system" means a trail that crosses the boundaries of:

116 (A) two or more counties;

117 (B) two or more municipalities; or

118 (C) a county and a municipality if the boundaries of the county and municipality are not
119 coextensive or substantially coterminous with the boundaries of each other.

120 (iii) "Trail" means a multi-use path used for:

121 (A) muscle-powered activities, including bicycling, cross-country skiing, walking,

122 jogging, and horseback riding; and

123 (B) a use compatible with the uses described in Subsection (4)(a)(iii)(A), including the
124 use of an electric assisted bicycle or motor assisted scooter, as defined in Section [41-6a-102](#).

125 (b) Notwithstanding Subsection (3), the right of eminent domain may be exercised for
126 the purposes of a trail, if:

127 (i) the part of the trail to be acquired by eminent domain will be:

128 (A) at least 36 inches in width;

129 (B) part of a regionally significant trail system; and

130 (C) approved by resolution of any municipality or county in which the trail will be
131 located after a public hearing is held by the municipality or county;

132 (ii) the proposed trail path does not cross a century farm;

133 (iii) the proposed trail path cannot be developed for a habitable structure under normal
134 zoning ordinances;

135 (iv) the proposed trail path is no closer than 100 feet of a habitable structure; and

136 (v) the proposed trail is included in an adopted trails master plan.