

Representative Phil Lyman proposes the following substitute bill:

EMINENT DOMAIN REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Phil Lyman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill revises provisions related to eminent domain.

Highlighted Provisions:

This bill:

- ▶ excludes certain uses for which the eminent domain right may be exercised.

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:

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

[Subject] (1) Except as provided in Subsection (2) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:



26 ~~[(1) all public uses authorized by the federal government;]~~
27 ~~[(2) (a) public buildings and grounds for the use of the state, and all other public uses~~
28 authorized by the Legislature;
29 ~~[(3) (a) (b) (i) public buildings and grounds for the use of any county, city, town, or~~
30 board of education;
31 ~~[(b) (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for 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 ~~[(c) (iii) the raising of the banks of streams, removing obstructions from streams, and~~
35 widening, deepening, or straightening their channels;
36 ~~[(d) (iv) bicycle paths and sidewalks adjacent to paved roads;~~
37 ~~[(e) (v) roads, byroads, streets, and alleys for public vehicular use, including for access~~
38 to a development~~[- excluding trails, paths, or other ways for walking, hiking, bicycling,~~
39 ~~equestrian use, or other recreational uses, or whose primary purpose is as a foot path,~~
40 ~~equestrian trail, bicycle path, or walkway]; and~~
41 ~~[(f) (vi) all other public uses for the benefit of any county, city, or town, or its~~
42 inhabitants;
43 ~~[(4) (c) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads,~~
44 plank and turnpike roads, roads for transportation by traction engines or road locomotives,
45 roads for logging or lumbering purposes, and railroads and street railways for public
46 transportation;
47 ~~[(5) (d) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and~~
48 pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of
49 ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and
50 reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of
51 minerals in solution;
52 ~~[(6) (a) (e) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping~~
53 places to access or facilitate the milling, smelting, or other reduction of ores, or the working of
54 mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;
55 ~~[(b) (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or~~
56 water from mills, smelters or other works for the reduction of ores, or from mines, quarries,

57 coal mines or mineral deposits including minerals in solution;

58 ~~[(e)]~~ (iii) mill dams;

59 ~~[(d)]~~ (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface

60 stratum or formation in any land for the underground storage of natural gas, and in connection

61 with that, any other interests in property which may be required to adequately examine,

62 prepare, maintain, and operate underground natural gas storage facilities;

63 ~~[(e)]~~ (v) solar evaporation ponds and other facilities for the recovery of minerals in

64 solution; and

65 ~~[(f)]~~ (vi) any occupancy in common by the owners or possessors of different mines,

66 quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,

67 or any place for the flow, deposit or conduct of tailings or refuse matter;

68 ~~[(7)]~~ (f) byroads leading from a highway to:

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

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

71 ~~[(8)]~~ (g) telecommunications, electric light and electric power lines, sites for electric

72 light and power plants, or sites for the transmission of broadcast signals from a station licensed

73 by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that

74 provides emergency broadcast services;

75 ~~[(9)]~~ (h) sewage service for:

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

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

78 ~~[(e)]~~ (iii) a college or university;

79 ~~[(10)]~~ (i) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying

80 and storing water for the operation of machinery for the purpose of generating and transmitting

81 electricity for power, light or heat;

82 ~~[(11)]~~ (j) cemeteries ~~[and public parks, except for a park whose primary use is:]; and~~

83 ~~[(a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or]~~

84 ~~[(b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or~~

85 equestrian use;]

86 ~~[(12)]~~ (k) sites for mills, smelters or other works for the reduction of ores and

87 necessary to their successful operation, including the right to take lands for the discharge and

88 natural distribution of smoke, fumes, and dust, produced by the operation of works, provided
89 that the powers granted by this section may not be exercised in any county where the
90 population exceeds 20,000, or within one mile of the limits of any city or incorporated town
91 nor unless the proposed condemner has the right to operate by purchase, option to purchase or
92 easement, at least 75% in value of land acreage owned by persons or corporations situated
93 within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor
94 beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or
95 agreements existing between the condemner and the owner of land within the limit and
96 providing for the operation of such mill, smelter, or other works for the reduction of ores; nor
97 until an action shall have been commenced to restrain the operation of such mill, smelter, or
98 other works for the reduction of ores.

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

100 (a) public buildings or grounds for the use of a county, city, town, or board of
101 education if the public building or ground is used for the purpose of recreation or
102 entertainment, including a park, sports facility, or gymnasium, unless the taking is consistent
103 with:

104 (i) a state or federal mitigation requirement; and

105 (ii) an existing general plan or master plan adopted by the county, city, town, or board
106 of education; or

107 (b) except as provided in Subsection (1)(b)(iv), trails, paths, or other ways for walking,
108 hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a
109 foot path, equestrian trail, bicycle path, or walkway, unless the taking is consistent with:

110 (i) a state or federal mitigation requirement; and

111 (ii) an existing general plan or master plan adopted by the county, city, town, or board
112 of education.