



AN ACT AUTHORIZING THE STATE OF MONTANA TO EXERCISE EMINENT DOMAIN AUTHORITY ON CERTAIN PROPERTY POSSESSED BY THE FEDERAL GOVERNMENT; AMENDING SECTIONS 2-1-102, 70-30-101, AND 70-30-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-1-102, MCA, is amended to read:

**"2-1-102. Sovereignty and jurisdiction of the state.** The sovereignty and jurisdiction of this state extend to all places within its boundaries as established by the constitution, excepting such places as are under the exclusive jurisdiction of the United States unless the state exercises eminent domain authority on certain property possessed by the United States pursuant to Title 70, chapter 30."

**Section 2.** Section 70-30-101, MCA, is amended to read:

**"70-30-101. Eminent domain defined.** Eminent domain is the right of the state to take private property or certain federal property for public use. This right may be exercised in the manner provided in this chapter."

**Section 3.** Section 70-30-103, MCA, is amended to read:

**"70-30-103. What property may be taken.** (1) The property that may be taken under this chapter includes:

- (a) all real property belonging to any person;
- (b) land that belongs to this state or to any county, city, or town and that is not appropriated to some public use;
- (c) property appropriated to a public use, but the property may not be taken unless for a more necessary public use than that to which it has already been appropriated;
- (d) franchises for roads, bridges, and ferries and all other franchises; but the franchises may not be taken unless for free highways, free bridges, railroads, or another more necessary public use; or

(e) a right-of-way for any public use mentioned in 70-30-102 and any structures and improvements on the right-of-way. The land held and used in connection with the right-of-way must be subject to being connected with, crossed, or intersected by any other right-of-way improvements or structures on the right-of-way. The improvements or structures must also be subject to a limited use in common with the owner of the improvements or structures when necessary. However, the uses, crossings, intersections, and connections must be made in the manner that is most compatible with the greatest public benefit and least private injury.

(f) property possessed by the federal government, unless the property includes property possessed by the federal government with the consent of the legislature and in accordance with Article I, section 8, clause 17, of the United States constitution. The state of Montana is the condemnor for purposes of the property described in this subsection (1)(f).

(2) All classes of private property not enumerated may be taken for public use when the taking is authorized by law."

**Section 4. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
SB 0254, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

SENATE BILL NO. 254

INTRODUCED BY R. HUTTON, VINCENT, MURPHY, ARTHUN, WARBURTON, ANKNEY, WALKER,  
JACKSON, HARRIS, STAHL, FLYNN, G. BENNETT

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