

EMINENT DOMAIN AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeffrey D. Stenquist

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies eminent domain provisions.

Highlighted Provisions:

This bill:

► provides that the Bonneville Shoreline Trail is a public use for which eminent domain may be used.

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 2023, Chapter 34

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 --

Limitations on eminent domain.

(1) As used in this section, "century farm" means real property that is:

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



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

29 (2) Except as provided in Subsections (3) and (4) and subject to the provisions of this
30 part, the right of eminent domain may be exercised on behalf of the following public uses:

31 (a) all public uses authorized by the federal government;

32 (b) public buildings and grounds for the use of the state, and all other public uses
33 authorized by the Legislature;

34 (c) (i) public buildings and grounds for the use of any county, city, town, or board of
35 education;

36 (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
37 sewage, including to or from a development, for the use of the inhabitants of any county, city,
38 or town, or for the draining of any county, city, or town;

39 (iii) the raising of the banks of streams, removing obstructions from streams, and
40 widening, deepening, or straightening their channels;

41 (iv) bicycle paths and sidewalks adjacent to paved roads;

42 (v) roads, byroads, streets, and alleys for public vehicular use, including for access to a
43 development; and

44 (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

45 (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank
46 and turnpike roads, roads for transportation by traction engines or road locomotives, roads for
47 logging or lumbering purposes, and railroads and street railways for public transportation;

48 (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes
49 for the supplying of persons, mines, mills, smelters or other works for the reduction of ores,
50 with water for domestic or other uses, or for irrigation purposes, or for the draining and
51 reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of
52 minerals in solution;

53 (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
54 to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines,
55 quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

56 (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
57 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
58 mines or mineral deposits including minerals in solution;

- 59 (iii) mill dams;
- 60 (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
61 formation in any land for the underground storage of natural gas, and in connection with that,
62 any other interests in property which may be required to adequately examine, prepare,
63 maintain, and operate underground natural gas storage facilities;
- 64 (v) solar evaporation ponds and other facilities for the recovery of minerals in solution;
65 and
- 66 (vi) any occupancy in common by the owners or possessors of different mines,
67 quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,
68 or any place for the flow, deposit or conduct of tailings or refuse matter;
- 69 (g) byroads leading from a highway to:
- 70 (i) a residence; or
71 (ii) a farm;
- 72 (h) telecommunications, electric light and electric power lines, sites for electric light
73 and power plants, or sites for the transmission of broadcast signals from a station licensed by
74 the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that
75 provides emergency broadcast services;
- 76 (i) sewage service for:
- 77 (i) a city, a town, or any settlement of not fewer than 10 families;
78 (ii) a public building belonging to the state; or
79 (iii) a college or university;
- 80 (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
81 storing water for the operation of machinery for the purpose of generating and transmitting
82 electricity for power, light or heat;
- 83 (k) cemeteries and public parks; [~~and~~]
- 84 (l) sites for mills, smelters or other works for the reduction of ores and necessary to
85 their successful operation, including the right to take lands for the discharge and natural
86 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the
87 powers granted by this section may not be exercised in any county where the population
88 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the
89 proposed condemner has the right to operate by purchase, option to purchase or easement, at

90 least 75% in value of land acreage owned by persons or corporations situated within a radius of
 91 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits
 92 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing
 93 between the condemner and the owner of land within the limit and providing for the operation
 94 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have
 95 been commenced to restrain the operation of such mill, smelter, or other works for the
 96 reduction of ores[-]; and

97 (m) the Bonneville Shoreline Trail.

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

99 (a) except as provided in [~~Subsection (2)(c)(iv)] Subsections (2)(c)(iv) and (2)(m),
 100 trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational
 101 uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;~~

102 (b) (i) a public park whose primary purpose is:

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

104 (B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
 105 equestrian use; or

106 (ii) a public park established on real property that is:

107 (A) a century farm; and

108 (B) located in a county of the first class.

109 (4) (a) The right of eminent domain may not be exercised within a migratory bird
 110 production area created on or before December 31, 2020, under Title 23A, Chapter 13,
 111 Migratory Bird Production Area, except as follows:

112 (i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory
 113 bird production area located in a county of the first class only for the purpose of installing
 114 buried power lines;

115 (ii) an electric utility may condemn land within a migratory bird production area in a
 116 county other than a county of the first class to install:

117 (A) buried power lines; or

118 (B) a new overhead transmission line that is parallel to and abutting an existing
 119 overhead transmission line or collocated within an existing overhead transmission line right of
 120 way; or

121 (iii) the Department of Transportation may exercise eminent domain for the purpose of
122 the construction of the West Davis Highway.

123 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the
124 electric utility shall demonstrate that:

125 (i) the proposed condemnation would not have an unreasonable adverse effect on the
126 preservation, use, and enhancement of the migratory bird production area; and

127 (ii) there is no reasonable alternative to constructing the power line within the
128 boundaries of a migratory bird production area.

129 Section 2. **Effective date.**

130 This bill takes effect on May 1, 2024.