

EMINENT DOMAIN AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill requires that a person exercising the right of eminent domain bare the burden of proof in an eminent domain action and requires a court to award a defendant to an eminent domain action costs if the defendant prevails in the action.

Highlighted Provisions:

This bill:

- ▶ requires that a person exercising the right of eminent domain bare the burden of proof in an eminent domain action;
- ▶ requires a court to award a defendant to an eminent domain action costs if the defendant prevails in the action; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-509, as renumbered and amended by Laws of Utah 2008, Chapter 3

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



28 Section 1. Section **78B-6-509** is amended to read:

29 **78B-6-509. Powers of court or judge -- Judicial review -- Attorney fees.**

30 (1) The court shall have the power to:

31 [~~1~~] (a) hear and determine all adverse or conflicting claims to the property sought to
32 be condemned, and the damages; and

33 [~~2~~] (b) determine the respective rights of different parties seeking condemnation of
34 the same property.

35 (2) For an action brought under this part, a person filing a complaint described in
36 Section 78B-6-507 shall have the burden to prove by a preponderance of the evidence that the
37 person has:

38 (a) exercised the right of eminent domain for a use described in Section 78B-6-501;
39 and

40 (b) met the requirements, if applicable, set forth in Sections 78B-6-504 and 78B-6-505.

41 (3) If a person described in Section 78B-6-508 prevails in an action brought under this
42 part, the court shall award the person costs, including reasonable attorney fees.

Legislative Review Note
as of 12-9-09 12:53 PM

Office of Legislative Research and General Counsel

S.B. 81 - Eminent Domain Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
