

House Research Act Summary

CHAPTER: 288

SESSION: 2010 Regular Session

TOPIC: Eminent domain

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Overview

Chapter 288 rescinds, for certain high-voltage transmission lines and for pipelines and ancillary facilities, exemptions from several eminent domain provisions that current law allows to public service corporations. This bill also requires the Public Utilities Commission to examine certain options when issuing a route permit for a high voltage transmission line. Public service corporations include the following entities:

- Utilities that provide gas, electric, telephone and cable service, including municipal utilities, cooperative associations, and municipal power agencies
- Pipelines transporting natural gas, petroleum, or petroleum products
- Municipal airports
- Watershed districts, drainage authorities

Section

1 [117.189] Public service corporation exception. Requires public service corporations to abide by several eminent domain statutes, from which they are otherwise exempt, for the following construction or expansion projects:

- a 100-kilovolt or greater electric transmission line, or ancillary substations; and
- a natural gas, petroleum, or petroleum products pipeline, including ancillary compressor or pumping stations.

The statutes to which such projects are subject under the bill are summarized below:

117.031. Attorney fees.

Provides that if the final award for damages in an eminent domain proceeding (excluding any amount for loss of a going concern) exceeds the last offer made by the acquiring authority by 40 percent or more, the court must also award the property owner reasonable attorney fees, litigation expenses, appraisal fees, and related fees and costs. Such awards must also be made if the court determines that a taking is not for a public use or is unlawful. If the final judgment is between 20 and 40 percent greater than the last offer made by the condemning authority, the court has discretion to award these court-related expenses to the property owner.

117.036. Appraisal and negotiation requirements.

Requires the acquiring authority to:

- (1) obtain one or more appraisals before commencing an eminent domain proceeding and furnish copies to the property owner when an offer is made;
- (2) inform the property owner of the property owner's right to obtain an appraisal, paid for by the acquiring authority, up to a maximum amount;
- (3) make a good faith attempt to negotiate personally with the property owner to acquire the property through direct purchase; and
- (4) give advance notice to the property owner of its intent to use an appraisal or documentation related to loss of going concern at a condemnation commissioners' hearing.

117.055, subd. 2, para. (b). Contents of notice of petition for taking.

Specifies that a notice given by an acquiring authority to a property owner that a petition has been presented to a district court to take certain property must state that the taking may be challenged in person at the court hearing or by appeal within 60 days and that a court order is final unless appealed within 60 days of service of the order.

117.186. Compensation for loss of going concern.

Requires an owner of a business or trade destroyed by a taking to be compensated for loss of going concern, except in specified circumstances, and allows a party to appeal the amount awarded.

117.187. Minimum compensation.

Specifies that an owner forced to relocate must receive minimum damages that allow the owner to purchase a comparable property in the community.

117.188. Limitations on condemning authority's actions.

Prohibits the acquiring authority from requiring the owner to accept as part of the compensation any substitute or replacement property, or to accept the return of any portion of the acquired property.

117.52, subd. 1a. Limit on relocation benefits.

Provides that relocation benefits to a displaced business shall be in accord with federal regulations, but establishes a maximum of \$50,000 that those regulations do not contain.

117.52, subd. 4. Relocation assistance determined by administrative law judge.

Allows a person rejecting the acquiring authority's offer of relocation benefits to initiate a contested case hearing before an administrative law judge, whose decision is

final.

- 2 **[117.225] Easement discharge.** Makes public service corporations subject to a provision, for the same energy projects listed in section 1, under which a property owner who believes that an easement is not being used for the purposes for which it was acquired can apply to district court to seek an order discharging the easement.
- 3 **[216E.03] Subd. 7. Consideration in designating sites and routes.** Requires the Minnesota Public Utilities Commission (PUC) to assess whether a proposed high-voltage transmission line can be located on an existing line or use an existing parallel right-of-way, and, if these options are not selected, to state the reasons.
- 4 **Transmission line routing.** Requires the PUC and the Minnesota Department of Transportation to cooperate in implementing section 3, and requires the commission to report to the legislature by January 15, 2011, any statutory changes needed to implement that section.