

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1182
Version: Second engrossment

DATE: March 3, 2010

Authors: Bly

Subject: Eminent domain

Analyst: Bob Eleff

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

House File 1182 rescinds, for specific energy projects, exemptions from several eminent domain provisions that current law allows to public service corporations. This bill also establishes standards for consideration when the Public Utilities Commission is considering whether to issue 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 **Consideration in designing routes.** Provides standards for consideration of the Public Utilities Commission when determining whether to issue a route permit for a high voltage transmission line.