

IN THE SENATE

SENATE BILL NO. 1411

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO EMINENT DOMAIN; AMENDING SECTION 7-704, IDAHO CODE, TO PROVIDE
CONDITIONS REQUIRED TO DEMONSTRATE A MORE NECESSARY PUBLIC USE FOR EMI-
NENT DOMAIN PURPOSES AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 7-704, Idaho Code, be, and the same is hereby
amended to read as follows:

7-704. FACTS PREREQUISITE TO TAKING. Before property can be taken it
must appear:

~~(1.)~~ That the use to which it is to be applied is a use authorized by law.

~~(2.)~~ That the taking is necessary to such use.

~~(3.)~~ If already appropriated to some public use, that the public use to
which it is to be applied is a more necessary public use. To demonstrate a
more necessary public use, the party seeking to exercise eminent domain must
show that it is capable of operating or holding the property without materi-
ally or unreasonably impairing all necessary public uses to which it already
is appropriated, and that:

(a) The party whose property is subject to the proposed taking is fail-
ing to perform an authorized public function;

(b) The operations or facilities of the party subject to the proposed
taking endanger or threaten to endanger public health and safety;

(c) The taking is necessary to protect taxpayers or ratepayers from
substantial unnecessary expense; or

(d) The taking otherwise is in the overall best interests of the public.

~~(4.)~~ In addition, for an electrical transmission line with a capacity
in excess of two hundred thirty (230) KV (kilovolts), to be constructed over
private real property actively devoted to agriculture, that a public meeting
shall have been held following ten (10) days' notice, as provided by section
60-109, Idaho Code, being published in a newspaper of general circulation in
each county or counties in which the transmission line is proposed to be lo-
cated with the last publication of the legal notice having occurred prior to
the public meeting at which testimony from interested persons regarding the
transmission line location is received.