

HCS HB 527 -- EMINENT DOMAIN FOR UTILITY PURPOSES

SPONSOR: Haffner

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 7 to 4.

The following is a summary of the House Committee Substitute for HB 527.

This bill specifies that, before the Public Service Commission (PSC) issues an approval for a merchant line, the electrical corporation must provide the PSC with a resolution of support passed by the county commission in each county through which the merchant line will be built. The bill specifies that no entity has the power of eminent domain for the purposes of constructing merchant lines. This restriction will not apply to any rural electric cooperatives or any electrical corporation operating under a cooperative business plan.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that the legislature was designed with checks and balances to preserve individual rights. At issue here are land rights. The Grain Belt Express (GBE), a private corporation, went through the process and was approved by the Public Service Commission and it has the right of eminent domain. This legislation will provide transparency about the grain belt. This has been a problem in more than just Missouri; there are ongoing issues in Kansas. Illinois did get regulatory approval but there are some issues with their certificate. GBE stated specifically that they will bear all risks to the project regardless of whether a market exists for its services. One issue is that this is a DC transmission line and the only AC converter station that was submitted as part of the plan is no longer part of the plan. The press release says they are going to deliver 2500 megawatts to Missouri and Kansas, and those numbers do not add up because it is a 4000 megawatt project. This project was supposed to bring power to the state of Missouri but now less than 6% of that power was going to be provided to the state. There was an economic impact study and it said that the model GBE provided for the economic impact study, which said that there would be a major reduction in costs, was not supported by the record. This is a private company taking private land and not to the benefit of Missourians. If this was better, more than 39 of the 739 easements would have been completed. The lost land to Missouri agriculture was not considered. Right now, residents in Ralls County are

having their land threatened with eminent domain. They are using government sanctioned confiscation of private property. People through whose property these power lines are running are not receiving any compensation even though their property value is greatly decreasing. Many landowners are signing because they are weary of fighting. There is a perceived health risk from these power lines. Those with centennial are supposed to get compensated 150% of their property as heritage value but they have not been offered that. Eminent domain was not meant to be used to take private land for private gain. Some of these small rural towns do not have the equipment or the fire departments to support them if there happened to be a fire as a result of this line.

Testifying for the bill were Representative Haffner; Scott Hodges; Missouri Cattlemen's Association; Missouri Corn Growers Association; Missouri Farm Bureau; Gary Mareschal; Robert Parham; Keith Wayne Rosenkrans; Charles Rosenkrans; Ralph Sandlin; Ronald Henke, Henke Angus Farms; Ron Staggs; Evan Emmerich; John L. Muehring, Jr; David E. Carpenter; Wayne L. Jones; Ron Lehmen; Debbie Hodges; Brian Boleach; Dennis R. McMillen, Center Locker Service; Russell R. Osterhout; Lindel Jackson; John Wayne Lake, Commissioner; Robyn Henke; Missouri Pork Association; Marilyn O'bannon; Christina Reichert; Wiley Hibbard, Ralls County; Matt Reichert; Kaitlynn Reichert; Gabriel Reichert; Roseanne Meyer; and Randy Meyer.

OPPONENTS: Those who oppose the bill say that, in 2018, Invenergy inherited the development of the project. The GBE will deliver 500 megawatts to Missouri homes, which is enough to power 200,000 Missouri homes annually. This will save them \$12.8 million annually on their electricity bills. This is a conservative number, and it is based on power supply cost. There is a binding contract with municipal utilities to save their residents money on their electricity bills. This is supposed to create 1500 annual jobs and it is supposed to be a 3-year project. It is about jobs but also about general revenue. This could fill holes in the state's General Revenue without subsidies from Missouri residents. The PSC said in its order that this is in the public interest. The company has invested \$30 million in reliance on the certificate it received from the PSC. They are offering 110% of the value of the easement, plus some crop compensation and structure compensation. It is the most competitive payment for this in the history of Missouri. The PSC unanimously agreed to this project moving forward. These lines are not being built along the highway; they are being built across the middle of these farms. This is not a utility even though they have convinced the PSC that they are. This bill will create an unlawful statute because it seeks to retroactively take GBE's vested right lawfully granted by the PSC. It also targets a single lawful public utility (as a matter of law)

with an unconstitutional special law. It is a taking. It also violates the dormant commerce clause. The public utilities do not want to use eminent domain; it is more beneficial to negotiate a fair price for the landowners. Every process held by the Supreme Court of Missouri has been followed in the process to get this certificate. The power is needed and some property owners are happy to support these projects so they can support other citizens of the state. They do negotiate their fair compensation. This takes away their rights to negotiate the fair value for their property. It is important to be supportive of progress. This utility is not going to own the land. They're going to purchase an easement that runs through the land and they are going to pay you for the easement. The compensation stops with the negotiations you can make for the damages. Renewable energy is very important and voters in Missouri voted 2 to 1 to support renewable energy.

Testifying against the bill were Invenergy Transmission; John Twitty, Missouri Public Utility Alliance; Peggy A. Whipple, Healy Law Offices For Grain Belt Express; Robert Wayne Wilcox; Donna R. Inglis; Mike Beckett, Hubbell Power Systems; Associated Industries of Missouri; Melissa Vatterott, JD, Missouri Coalition For The Environment .

OTHERS: Others testifying on the bill say they are available for questions. This project does not impact the PSC. This legislation could impact similar projects in the state of Missouri. This is the only project of its type right now but it's not necessarily the only one that would come before the Commission. The PSC would not have a role in this unless the GBE changed the terms of the project, in which case it would need a new certificate.

Testifying on the bill were Natelle Dietrich, Missouri Public Service Commission and Douglas Anderson, Missouri Public Service Commission.