

SECOND REGULAR SESSION

HOUSE BILL NO. 1902

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALKER (3).

4059H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 393.170, 523.250, and 523.262, RSMo, and to enact in lieu thereof four new sections relating to infrastructure development.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 393.170, 523.250, and 523.262, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 393.170, 523.250, 523.262, and 523.300 to read as follows:

393.170. 1. No gas corporation, electrical corporation, water corporation, or sewer corporation shall begin construction of a gas plant, electric plant, water system, or sewer system without first having obtained the permission and approval of the commission. **No gas corporation, electrical corporation, water corporation, or sewer corporation shall seek permission and approval of the commission before providing at least one hundred twenty days' notice to all affected property owners.**

2. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.

3. Before any certificate is issued under this section, such corporation shall provide the approval of each affected county commission to the commission. A county commission

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **may grant approval by a vote in favor of such corporation's proposal. A tied vote shall be**
17 **deemed a vote in disapproval.**

18 [3-] 4. The commission shall have the power to grant the permission and approval herein
19 specified whenever it shall after due hearing determine that such construction or such exercise
20 of the right, privilege or franchise is necessary or convenient for the public service. The
21 commission may by its order impose such condition or conditions as it may deem reasonable and
22 necessary. Unless exercised within a period of two years from the grant thereof, authority
23 conferred by such certificate of convenience and necessity issued by the commission shall be null
24 and void.

523.250. 1. At least ~~sixty~~ **one hundred twenty** days before filing of a condemnation
2 petition seeking to acquire an interest in real property, the condemning authority shall provide
3 the owner of record of such property with a written notice concerning the intended acquisition.
4 Such notice shall include:

- 5 (1) Identification of the interest in real property to be acquired and a statement of the
6 legal description or commonly known location of the property;
- 7 (2) The purpose or purposes for which the property is to be acquired;
- 8 (3) A statement that the property owner has the right to:
 - 9 (a) Seek legal counsel at the owner's expense;
 - 10 (b) Make a counteroffer and engage in further negotiations;
 - 11 (c) Obtain such owner's own appraisal of just compensation;
 - 12 (d) Have just compensation determined preliminarily by court-appointed condemnation
13 commissioners and, ultimately, by a jury;
 - 14 (e) Seek assistance from the office of the ombudsman for property rights created under
15 section 523.277;
 - 16 (f) Contest the right to condemn in the condemnation proceeding; and
 - 17 (g) Exercise the rights to request vacation of an easement under the procedures and
18 circumstances provided for in section 527.188.

19
20 An owner may waive the requirements of this subsection prescribed above in a writing executed
21 by the owner.

22 2. The written notice required by this section shall be deposited in the United States mail,
23 certified or registered, and with postage prepaid, addressed to the owner of record as listed in the
24 office of the city or county assessor for the city or county in which the property is located. The
25 receipt issued to the condemning authority by the United States Post Office for certified or
26 registered mail shall constitute proof of compliance with this notice requirement; provided,

27 however, that nothing in this section shall preclude a condemning authority from proving
28 compliance with this notice requirement by other competent evidence.

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent
2 domain shall only be vested in governmental bodies or agencies whose governing body is elected
3 or whose governing body is appointed by elected officials or in an urban redevelopment
4 corporation operating pursuant to a redevelopment agreement with the municipality for a
5 particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

6 2. A private utility company, public utility, rural electric cooperative, municipally owned
7 utility, pipeline, railroad, or common carrier shall have the power of eminent domain as may be
8 granted pursuant to the provisions of other sections of the revised statutes of Missouri, **except**
9 **such power shall not extend to a private utility for the construction of electrical lines or**
10 **infrastructure.** For the purposes of this section, the term "common carrier" shall not include
11 motor carriers, contract carriers, or express companies. Where a condemnation by such an entity
12 results in a displaced person, as defined in section 523.200, the provisions of subsections 3 and
13 6 to 10 of section 523.205 shall apply unless the condemning entity is subject to the relocation
14 assistance provisions of the federal Uniform Relocation Assistance Act.

15 3. Any entity with the power of eminent domain and pursuing the acquisition of property
16 for the purpose of constructing a power generation facility after December 31, 2006, after
17 providing notice in a newspaper of general circulation in the county where the facility is to be
18 constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior
19 to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the
20 property owner with notification of the identity of the condemning authority and the proposed
21 purpose for which the condemned property shall be used at the time of making the initial offer.

523.300. 1. For eminent domain proceedings to acquire land that is devoted to
2 **agricultural purposes or an interest therein, unless the proceedings are for constructing**
3 **or maintaining pipelines, a condemning authority shall select a route along or following**
4 **section or boundary lines. The property owner, lease holder, manager, trustee, conservator,**
5 **or executor may consent to a deviation from a route along or following section or boundary**
6 **lines.**

7 **2. Land devoted to agricultural purposes acquired through eminent domain shall**
8 **be subject to the following:**

9 **(1) No action by a condemning authority shall exceed a burden of ten pounds of**
10 **force per square inch (PSI) on the soil. If in question, the PSI level shall be measured by**
11 **an independent contractor at the condemning authority's expense. Such actions shall**
12 **include, but not be limited to, surveying, staking, constructing, erecting, placing, keeping,**

13 **operating, maintaining, inspecting, patrolling, renewing, adding to, upgrading, relocating,**
14 **and collocating;**

15 **(2) No vehicle or equipment with an axle load greater than ten thousand pounds per**
16 **axle, a gross vehicle weight of more than fifty thousand pounds, or that exerts more than**
17 **ten PSI shall traverse the land on temporary decking. Decking shall not exert more than**
18 **five PSI with the load required;**

19 **(3) No action by a condemning authority shall restrict, impede, or limit existing or**
20 **potential irrigation; the operation of agricultural machinery; range of livestock; drainage**
21 **of land; existing or potential aerial applications; or any other land use by the property**
22 **owner, lease holder, manager, or executor. Such actions shall include, but not be limited**
23 **to, surveying, staking, constructing, erecting, placing, keeping, operating, maintaining,**
24 **inspecting, patrolling, renewing, adding to, upgrading, relocating, and collocating; and**

25 **(4) A condemning authority shall give two weeks' written notice to the landowner**
26 **before accessing an easement, except in cases of emergency.**

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