

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 890

Introduced by Dubas, 34.

Read first time January 14, 2014

Committee:

A BILL

1 FOR AN ACT relating to property; to amend sections 25-2501, 25-2502,
2 25-2503, and 25-2504, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to procedures for
4 acquiring private property for public use; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-2501, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-2501 It is the intent and purpose of sections 25-2501
4 to 25-2506 to establish a uniform procedure to be used in acquiring
5 private property for a public purpose by the State of Nebraska and
6 its political subdivisions and by all privately owned public utility
7 corporations and common carriers which have been granted the power of
8 eminent domain. ~~Such sections shall not apply to:~~

9 ~~(1) Water transmission and distribution pipelines and
10 their appurtenances and common carrier pipelines and their
11 appurtenances;~~

12 ~~(2) Public utilities and cities of all classes and
13 villages when acquiring property for a proposed project involving the
14 acquisition of rights or interests in ten or fewer separately owned
15 tracts or when the acquisition is within the corporate limits of any
16 city or village;~~

17 ~~(3) Sanitary and improvement districts organized under
18 sections 31-727 to 31-762 when acquiring easements for a proposed
19 project involving the acquisition of rights or interests in ten or
20 fewer separately owned tracts;~~

21 ~~(4) Counties and municipalities which acquire property
22 through the process of platting or subdivision or for street or
23 highway construction or improvements;~~

24 ~~(5) Common carriers subject to regulation by the Federal
25 Railroad Administration of the United States Department of~~

1 ~~Transportation; or~~

2 ~~(6) The Department of Roads when acquiring property for~~
 3 ~~highway construction or improvements.~~

4 Sec. 2. Section 25-2502, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 25-2502 ~~As used in~~ For purposes of sections 25-2501 to
 7 25-2506 and 70-301: ~~, unless the context otherwise requires:~~

8 (1) Agency ~~shall include~~ includes the State of Nebraska
 9 and any department, board, commission, or similar entity thereof
 10 which possesses the authority to acquire property either with or
 11 without the use of eminent domain, any political subdivision of the
 12 State of Nebraska, and any privately owned public utility corporation
 13 or common carrier ~~not exempted by section 25-2501~~ which possesses the
 14 authority to acquire property through the use of eminent domain;

15 (2) Property ~~shall include~~ includes any right or interest
 16 in real property, including but not limited to easements, but ~~shall~~
 17 does not include easements for public utilities located adjacent to
 18 and within ten feet of a public road right-of-way; and

19 (3) Negotiations ~~shall mean~~ means communications between
 20 representatives of the agency and the property owner or his or her
 21 representatives who are specifically authorized to attempt to reach
 22 agreement on terms by which the agency shall acquire such property.

23 Sec. 3. Section 25-2503, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 25-2503 (1) Any agency which proposes to acquire private

1 property for a public purpose shall give notice of such proposed
2 acquisition at least forty-five days before beginning negotiations
3 for such acquisition. The notice shall be directed to each owner of
4 property over or across which any right or interest is to be acquired
5 and shall be deemed properly given if delivered personally or mailed
6 by registered or certified mail addressed to the property owner and
7 to the address shown on the tax records in the office of the county
8 treasurer, except that such notice shall be sufficient if given to
9 the administrator or executor of the estate of a deceased person, the
10 trustee of a trust estate, the guardian of the estate of a minor or
11 incompetent person, or a conservator. ~~The~~ On and after January 1,
12 2015, the notice shall (1)-(a) include the pamphlet described in
13 subsection (2) of this section, (b) make it clear that the notice is
14 for negotiations for acquisition of the property and the compensation
15 to be paid by the agency for such acquisition, and eminent domain
16 will not be an issue unless good faith negotiations fail, (c)
17 describe the property proposed to be acquired and the compensation to
18 be given for such property, ~~(2)-(d)~~ (d) include a statement of the
19 authority for the acquisition, ~~(3)-(e)~~ (e) include the nature of and
20 necessity and purpose for which the ~~land~~ property shall be used, (4)
21 (f) include the title, right, or interest in the property to be
22 acquired, ~~(5)-(g)~~ (g) specify the amount of property needed for the
23 public purpose, ~~(6)-(h)~~ (h) include the reasons for selecting the
24 proposed location or route, and ~~(7)-(i)~~ (i) state that if approval of any
25 other agency is required, the ~~condemner~~ agency shall set forth which

1 other agency's approval shall be necessary and, when the acquisition
2 involves a highway, power line, telephone line, or similar project,
3 shall include a map showing the proposed route to be followed by the
4 project.

5 (2) Within thirty days after the effective date of this
6 act, the Attorney General shall have developed and make available, in
7 printed or electronic format, a pamphlet describing a private
8 property owner's rights relating to an agency proposing to acquire
9 private property for a public purpose in the State of Nebraska. The
10 pamphlet shall be in simple language and readable format. The
11 pamphlet shall include, but not be limited to, the following
12 information: Why the property owner is receiving the pamphlet; that
13 negotiations for acquisition of the property and the compensation for
14 such acquisition is the first step in the process of an agency
15 proposing to acquire private property for a public purpose; that
16 eminent domain is involved only if good faith negotiations fail to
17 reach an agreement; and an explanation of what eminent domain is, the
18 procedures involved, and the rights of a private property owner
19 relating to eminent domain. The Attorney General shall make the
20 pamphlet available to all agencies at a price fixed to cover costs of
21 publication.

22 Sec. 4. Section 25-2504, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 25-2504 (1) Subsection (2) of this section shall not
25 apply to:

1 (a) Water transmission and distribution pipelines and
2 their appurtenances and common carrier pipelines and their
3 appurtenances;

4 (b) Public utilities and cities of all classes and
5 villages when acquiring property for a proposed project involving the
6 acquisition of rights or interests in ten or fewer separately owned
7 tracts or when the acquisition is within the corporate limits of any
8 city or village;

9 (c) Sanitary and improvement districts organized under
10 sections 31-727 to 31-762 when acquiring easements for a proposed
11 project involving the acquisition of rights or interests in ten or
12 fewer separately owned tracts;

13 (d) Counties and municipalities which acquire property
14 through the process of platting or subdivision or for street or
15 highway construction or improvements;

16 (e) Common carriers subject to regulation by the Federal
17 Railroad Administration of the United States Department of
18 Transportation; or

19 (f) The Department of Roads when acquiring property for
20 highway construction or improvements.

21 (2) After giving notice pursuant to section 25-2503, the
22 agency shall hold a public hearing on the proposed project and
23 acquisition at least thirty days before beginning negotiations for
24 such acquisition. Notice of such public hearing shall be published at
25 least ten days prior to such hearing in a legal newspaper published

1 in and of general circulation in each county, if such a newspaper
2 exists, or if no such newspaper is published in the county, notice
3 shall be published in a newspaper which has been designated as the
4 official legal notice publication by the county board and is of
5 general circulation in the county or counties in which the hearing is
6 to be held. When the proposed acquisition consists of property from
7 more than one county, a hearing shall be held in the county seat of
8 each county. When the proposed acquisition is countywide in scope,
9 the hearing shall be held at the county seat. When the proposed
10 acquisition involves a lesser area, the hearing shall be held in a
11 location convenient to the property to be acquired. When the proposed
12 acquisition involves property located outside this state, the hearing
13 shall be held at the principal office of the agency.

14 At the hearing, the agency shall explain the nature of
15 and necessity for the project for which it seeks to acquire property,
16 the reasons for selecting the particular location or route, the right
17 of each owner of property to be represented by an attorney and to
18 negotiate and accept or reject the offer of ~~damages which will be~~
19 ~~sustained by~~ compensation to be given for the proposed acquisition,
20 and the right to require that such ~~damages~~ compensation be determined
21 pursuant to the procedures for acquisition by eminent domain. The
22 agency shall hear and consider any objections from any person.

23 If the agency relocates the proposed project following
24 such hearing and such relocation would require the acquisition of
25 rights or interests in the property of more than ten additional

1 owners of separately owned tracts to whom notice was not previously
2 given, the agency shall give notice as provided in section 25-2503 to
3 such additional owners and shall hold a public hearing as provided in
4 this section with reference solely to that part of the project which
5 has been relocated. The ~~;~~ ~~Provided,~~ ~~that~~ ~~the~~ time restrictions in
6 section 25-2503 and this section shall not be applicable to any such
7 additional notice, hearing, or negotiations.

8 Sec. 5. Original sections 25-2501, 25-2502, 25-2503, and
9 25-2504, Reissue Revised Statutes of Nebraska, are repealed.