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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **338**

02/04/2013 Authored by Bly, Atkins, Gruenhagen, Uglem, McNamar and others
The bill was read for the first time and referred to the Committee on Energy Policy
03/13/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to eminent domain; making award of appraisal fees in utility takings
1.3 the same as other takings; modifying the "buy the farm" provisions; amending
1.4 Minnesota Statutes 2012, sections 117.189; 216E.12, subdivision 4.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 117.189, is amended to read:

1.7 **117.189 PUBLIC SERVICE CORPORATION EXCEPTIONS.**

1.8 Sections 117.031; 117.036; 117.055, subdivision 2, paragraph (b); 117.186; 117.187;
1.9 117.188; and 117.52, subdivisions 1a and 4, do not apply to the use of eminent domain
1.10 authority by public service corporations for any purpose other than construction or
1.11 expansion of:

1.12 (1) a high-voltage transmission line of 100 kilovolts or more, or ancillary
1.13 substations; or

1.14 (2) a natural gas, petroleum, or petroleum products pipeline, or ancillary compressor
1.15 stations or pumping stations.

1.16 ~~For purposes of an award of appraisal fees under section 117.085, the fees awarded~~
1.17 ~~may not exceed \$1,500 for all types of property except for a public service corporation's~~
1.18 ~~use of eminent domain for a high-voltage transmission line, where the award may not~~
1.19 ~~exceed \$3,000.~~

1.20 ~~For purposes of this section, "pipeline" does not include a natural gas distribution~~
1.21 ~~line transporting gas to an end user.~~

1.22 Sec. 2. Minnesota Statutes 2012, section 216E.12, subdivision 4, is amended to read:

2.1 Subd. 4. **Contiguous land.** (a) When private real property that is an agricultural or
2.2 nonagricultural homestead, nonhomestead agricultural land, rental residential property,
2.3 and both commercial and noncommercial seasonal residential recreational property, as
2.4 those terms are defined in section 273.13 is proposed to be acquired for the construction
2.5 of a site or route for a high-voltage transmission line with a capacity of 200 kilovolts or
2.6 more by eminent domain proceedings, the fee owner, ~~or when applicable, the fee owner~~
2.7 ~~with the written consent of the contract for deed vendee, or the contract for deed vendee~~
2.8 ~~with the written consent of the fee owner,~~ shall have the option to require the utility to
2.9 condemn a fee interest in any amount of contiguous, ~~commercially viable~~ land which the
2.10 owner ~~or vendee~~ wholly owns ~~or has contracted to own~~ in undivided fee and elects in
2.11 writing to transfer to the utility within 60 days after receipt of the notice of the objects of
2.12 the petition filed pursuant to section 117.055. ~~Commercial viability shall be determined~~
2.13 ~~without regard to the presence of the utility route or site.~~ Within 60 days after receipt by
2.14 the utility of a fee owner's election to exercise this option, the utility shall provide written
2.15 notice to the fee owner of any objection the utility has to the fee owner's election, and
2.16 if no objection is made within that time, any objection shall be deemed waived. Within
2.17 90 days of the service of an objection by the utility, the district court having jurisdiction
2.18 over the eminent domain proceeding shall hold a hearing to determine whether the utility's
2.19 objection is upheld or rejected. The owner ~~or, when applicable, the contract vendee~~ shall
2.20 have only one such option and may not expand or otherwise modify an election without
2.21 the consent of the utility. The required acquisition of land pursuant to this subdivision
2.22 shall be considered an acquisition for a public purpose and for use in the utility's business,
2.23 for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall
2.24 divest itself completely of all such lands used for farming or capable of being used
2.25 for farming not later than the time it can receive the market value paid at the time of
2.26 acquisition of lands less any diminution in value by reason of the presence of the utility
2.27 route or site. Upon the owner's election made under this subdivision, the easement interest
2.28 over and adjacent to the lands designated by the owner to be acquired in fee, sought in
2.29 the condemnation petition for a right-of-way for a high-voltage transmission line with a
2.30 capacity of 200 kilovolts or more shall automatically be converted into a fee taking.

2.31 (b) All rights and protections provided to an owner under chapter 117, including in
2.32 particular sections 117.031, 117.036, 117.186, and 117.52, apply to acquisition of land
2.33 or an interest in land under this section.

2.34 (c) Within 90 days of an owner's election under this subdivision to require the utility
2.35 to acquire land, or 90 days after a district court decision overruling a utility objection to an

3.1 election made pursuant to paragraph (a), the utility must make a written offer to acquire
3.2 that land and amend its condemnation petition to include the additional land.

3.3 (d) For purposes of this subdivision, "owner" means the fee owner, or when
3.4 applicable, the fee owner with the written consent of the contract for deed vendee, or the
3.5 contract for deed vendee with the written consent of the fee owner.

3.6 **EFFECTIVE DATE.** This section is effective the day following final enactment
3.7 and applies to eminent domain proceedings or actions pending or commenced on or after
3.8 that date. "Commenced" means when service of notice of the petition under Minnesota
3.9 Statutes, section 117.055, is made.