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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 106

01/12/2015 Authored by Garofalo, Fabian, Pugh, Hamilton and Drazkowski
The bill was read for the first time and referred to the Committee on Agriculture Policy

1.1 A bill for an act
1.2 relating to eminent domain; establishing a "buy the farm" option for real property
1.3 owners whose property is taken for intercity high-speed rail use; proposing
1.4 coding for new law in Minnesota Statutes, chapter 218.

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

1.6 Section 1. **[218.77] INTERCITY HIGH-SPEED RAIL; "BUY THE FARM."**

1.7 Subdivision 1. **Application.** This section applies to acquisition of real property, or
1.8 an interest in real property, for intercity high-speed rail use following the procedures
1.9 in chapter 117.

1.10 Subd. 2. **Not a substantive grant of the power of eminent domain.** This section
1.11 does not grant any entity the power of eminent domain. Any authority to use eminent
1.12 domain must be granted in other law.

1.13 Subd. 3. **Owner defined.** For the purposes of this section, "owner" means the fee
1.14 owner, or when applicable, the fee owner with the written consent of the contract for deed
1.15 vendee, or the contract for deed vendee with the written consent of the fee owner.

1.16 Subd. 4. **Contiguous land.** (a) When private real property that is an agricultural or
1.17 nonagricultural homestead, nonhomestead agricultural land, rental residential property,
1.18 and both commercial and noncommercial seasonal residential recreational property,
1.19 as those terms are defined in section 273.13, is proposed to be acquired for intercity
1.20 high-speed rail purposes, the owner shall have the option to require the acquiring entity to
1.21 acquire a fee interest in any amount of contiguous, commercially viable land which the
1.22 owner wholly owns in undivided fee and elects in writing to transfer to the acquiring entity
1.23 within 60 days after receipt of the notice of the objects of the petition filed pursuant to
1.24 section 117.055. Commercial viability shall be determined without regard to the presence

2.1 of the intercity high-speed rail. Within 60 days after receipt by the acquiring entity of
2.2 an owner's election to exercise this option, the acquiring entity shall provide written
2.3 notice to the owner of any objection the acquiring entity has to the owner's election, and
2.4 if no objection is made within that time, any objection shall be deemed waived. Within
2.5 120 days of the service of an objection by the acquiring entity, the district court having
2.6 jurisdiction over the eminent domain proceeding shall hold a hearing to determine whether
2.7 the acquiring entity's objection is upheld or rejected. The acquiring entity has the burden
2.8 of proof to prove by a preponderance of the evidence that the property elected by the
2.9 owner is not commercially viable. The owner shall have only one such option and may not
2.10 expand or otherwise modify an election without the consent of the acquiring entity. The
2.11 required acquisition of land pursuant to this subdivision shall be considered an acquisition
2.12 for a public purpose for purposes of chapter 117. The acquiring entity shall divest itself
2.13 completely of all such lands used for farming or capable of being used for farming not
2.14 later than the time it can receive the market value paid at the time of acquisition of lands
2.15 less any diminution in value by reason of the presence of the intercity high-speed rail.
2.16 Upon the owner's election made under this subdivision, the easement interest over and
2.17 adjacent to the lands designated by the owner to be acquired in fee, sought to be acquired
2.18 shall automatically be converted into a fee taking.

2.19 (b) All rights and protections provided to an owner under chapter 117 apply to
2.20 acquisition of land or an interest in land under this section.

2.21 (c) Within 120 days of an owner's election under this subdivision to require the
2.22 acquiring entity to acquire land, or 120 days after a district court decision overruling an
2.23 acquiring entity objection to an election made pursuant to paragraph (a), the acquiring
2.24 entity must make a written offer to acquire that land and amend its condemnation petition
2.25 to include the additional land.

2.26 Subd. 5. **Payment.** When the amount the owner shall receive for the property
2.27 acquired for intercity high-speed rail is finally determined, the owner entitled to payment
2.28 may elect to have the amount paid in not more than ten annual installments, with interest
2.29 on the deferred installments, at the rate of eight percent per annum on the unpaid balance,
2.30 by submitting a written request to the acquiring entity before any payment has been made.
2.31 After the first installment is paid, the acquiring entity may make its final certificate, as
2.32 provided by law, in the same manner as though the entire amount had been paid.

2.33 Subd. 6. **Reversion of interests after five years.** Notwithstanding any law to the
2.34 contrary, if an easement acquired is not used for high-speed rail purposes for a period
2.35 of five years after acquisition, all easement interests revert to the owner, who shall be
2.36 determined as of the date of the reversion.

- 3.1 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
- 3.2 acquisitions commenced on or after that date.