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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
- 03/21/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Rules and Legislative Administration
- 04/10/2013 Adoption of Report: Pass and re-referred to the Committee on Civil Law
- 04/17/2013 Adoption of Report: Pass and re-referred to the Committee on Judiciary Finance and Policy

1.1 A bill for an act
1.2 relating to real property; modifying certain eminent domain provisions with
1.3 respect to electric power utilities; establishing a property rights ombudsman;
1.4 amending Minnesota Statutes 2012, section 216E.12, subdivision 4; proposing
1.5 coding for new law in Minnesota Statutes, chapter 216E.

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

1.7 Section 1. Minnesota Statutes 2012, section 216E.12, subdivision 4, is amended to read:

1.8 Subd. 4. **Contiguous land.** (a) When private real property that is an agricultural or
1.9 nonagricultural homestead, nonhomestead agricultural land, rental residential property,
1.10 and both commercial and noncommercial seasonal residential recreational property, as
1.11 those terms are defined in section 273.13 is proposed to be acquired for the construction of
1.12 a site or route for a high-voltage transmission line with a capacity of 200 kilovolts or more
1.13 by eminent domain proceedings, ~~the fee owner, or when applicable, the fee owner with the~~
1.14 ~~written consent of the contract for deed vendee, or the contract for deed vendee with the~~
1.15 ~~written consent of the fee owner,~~ shall have the option to require the utility to condemn a
1.16 fee interest in any amount of contiguous, ~~commercially viable~~ land which the owner or
1.17 vendee wholly owns ~~or has contracted to own~~ in undivided fee and elects in writing to
1.18 transfer to the utility within 60 days after receipt of the notice of the objects of the petition
1.19 filed pursuant to section 117.055. ~~Commercial viability shall be determined without regard~~
1.20 ~~to the presence of the utility route or site.~~ Within 60 days after receipt by the utility of
1.21 an owner's election to exercise this option, the utility shall provide written notice to the
1.22 owner of any objection the utility has to the owner's election, and if no objection is made
1.23 within that time, any objection shall be deemed waived. Within 90 days of the service of
1.24 an objection by the utility, the district court having jurisdiction over the eminent domain
1.25 proceeding shall hold a hearing to determine whether the utility's objection is upheld or

2.1 rejected. The owner ~~or, when applicable, the contract vendee~~ shall have only one such
 2.2 option and may not expand or otherwise modify an election without the consent of the
 2.3 utility. The required acquisition of land pursuant to this subdivision shall be considered
 2.4 an acquisition for a public purpose and for use in the utility's business, for purposes of
 2.5 chapter 117 and section 500.24, respectively; provided that a utility shall divest itself
 2.6 completely of all such lands used for farming or capable of being used for farming not
 2.7 later than the time it can receive the market value paid at the time of acquisition of lands
 2.8 less any diminution in value by reason of the presence of the utility route or site. Upon
 2.9 the owner's election made under this subdivision, the easement interest over and adjacent
 2.10 to the lands designated by the owner to be acquired in fee, sought in the condemnation
 2.11 petition for a right-of-way for a high-voltage transmission line with a capacity of 200
 2.12 kilovolts or more shall automatically be converted into a fee taking.

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

2.16 (c) Within 90 days of an owner's election under this subdivision to require the utility
 2.17 to acquire land, or 90 days after a district court decision overruling a utility objection to an
 2.18 election made pursuant to paragraph (a), the utility must make a written offer to acquire
 2.19 that land and amend its condemnation petition to include the additional land.

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

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

2.27 **Sec. 2. [216E.121] PROPERTY RIGHTS OMBUDSMAN.**

2.28 The Department of Agriculture shall provide a property rights ombudsman to assist
 2.29 landowners who may be affected by a proposed high-voltage transmission line of 100
 2.30 kilovolts or more, or ancillary substations, or a natural gas, petroleum, or petroleum
 2.31 products pipeline, or ancillary compressor stations or pump stations that require a certificate
 2.32 of need under chapter 216B or a site or route permit under chapter 216E. The ombudsman
 2.33 shall provide impartial information to landowners or others facing a potential right-of-way
 2.34 acquisition from a project described in this section, including, but not limited to:

3.1 (1) the steps and procedures an acquiring authority must comply with in seeking to
3.2 obtain a right-of-way by negotiation or eminent domain;

3.3 (2) the timelines associated with various procedures under clause (1);

3.4 (3) options and rights of property owners and other persons faced with a right-of-way
3.5 acquisition under the law, including rights for reimbursement of costs of appraisals and
3.6 relocation costs; and

3.7 (4) how to find appraisers and attorneys specializing in right-of-way acquisition to
3.8 assist landowners or others.

3.9 The department's cost of providing a property rights ombudsman shall be reimbursed
3.10 on a prorated basis by the proposers whose projects generate inquiries to the property
3.11 rights ombudsman.

3.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.