

LEGISLATIVE BILL 187

Approved by the Governor May 26, 1973

Introduced by Kremer, 34

AN ACT relating to real property; to establish a uniform procedure to be used in acquiring private property for public purposes; to amend section 70-301, Reissue Revised Statutes of Nebraska, 1943; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. It is the intent and purpose of this act to establish a uniform procedure to be used in acquiring private property for a public purpose by the State of Nebraska and its political subdivisions and by all privately-owned public utility corporations and common carriers which have been granted the power of eminent domain; Provided, that this act shall not apply to:

(1) Gas and water transmission and distribution pipe lines and their appurtenances, common carrier pipe lines and their appurtenances, or to public utilities when acquiring property for a proposed project involving the acquisition of rights or interests in ten or fewer separately-owned tracts or when the acquisition is within the corporate limits of any city or village;

(2) The proposed location of electric pole lines or underground lines with a voltage capacity of less than thirty-four thousand five hundred volts;

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

(4) Common carriers subject to regulation by the Federal Railroad Administration of the United States Department of Transportation; or

(5) The Department of Roads when acquiring property for highway construction or improvements.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Agency shall include the State of Nebraska and any department, board, commission, or similar entity thereof which possesses the authority to acquire property

either with or without the use of eminent domain, any political subdivision of the State of Nebraska, and any privately-owned public utility corporation or common carrier not exempted by section 1 of this act which possesses the authority to acquire property through the use of eminent domain; and

(2) Property shall include any right or interest in real property, including but not limited to easements, but shall not include easements for public utilities located adjacent to and within ten feet of a public road right-of-way.

Sec. 3. Any agency which proposes to acquire private property for a public purpose shall give notice of such proposed acquisition at least ninety days before beginning negotiations for such acquisition. The notice shall be directed to each owner of property over or across which any right or interest is to be acquired, and shall be deemed properly given if delivered personally or mailed by registered or certified mail addressed to the property owner and to the address shown on the tax records in the office of the county treasurer; Provided, that such notice shall be sufficient if given to the administrator or executor of the estate of a deceased person, the trustee of a trust estate, the guardian of the estate of a minor or incompetent person, or a conservator. The notice shall describe the property proposed to be acquired and, when the acquisition involves a highway, power line, or similar project, shall include a map showing the proposed route to be followed by the project.

Sec. 4. After giving notice pursuant to section 3 of this act, the agency shall hold a public hearing on the proposed project and acquisition at least thirty days before beginning negotiations for such acquisition. When the proposed acquisition consists of property from more than one county, a hearing shall be held in the county seat of each county. When the proposed acquisition is countywide in scope, the hearing shall be held at the county seat. When the proposed acquisition involves a lesser area, the hearing shall be held in a location convenient to the property to be acquired.

At the hearing, the agency shall explain the nature of and necessity for the project for which it seeks to acquire property, the reasons for selecting the particular location or route, the right of each owner of property to be represented by an attorney and to negotiate and accept or reject the offer of damages which will be sustained by the proposed acquisition, and the right to require that such damages be determined pursuant

to the procedures for acquisition by eminent domain. The agency shall hear and consider any objections from the persons to be affected.

If the agency relocates the proposed project following such hearing and such relocation would require the acquisition of rights or interests in the property of more than ten additional owners of separately-owned tracts to whom notice was not previously given, the agency shall give notice as provided in section 3 of this act to such additional owners and shall hold a public hearing as provided in this section with reference solely to that part of the project which has been relocated. Provided, that the time restrictions in section 3 of this act and this section shall not be applicable to any such additional notice, hearing, or negotiations.

Sec. 5. The provisions of this act relating to public notice and public hearings shall not apply to any agency acquiring property on a willing buyer, willing seller basis or by gift or other form of voluntary transfer when no authority exists to exercise eminent domain proceedings.

Sec. 6. Sections 1 to 6 of this act shall be construed to be cumulative and independent legislation and complete in themselves.

Sec. 7. That section 70-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-301. Any public power district, corporation, or municipality that is now or may hereafter be engaged in the generation or transmission, or both, of electric energy for sale to the public for light and power purposes, may acquire right-of-way over and upon lands, except railroad right-of-way and depot grounds, for the construction of pole lines or underground lines necessary for the conduct of such business, and for the placing of all poles and constructions for the necessary adjuncts thereto, in the same manner as railroad corporations may acquire right-of-way for the construction of railroads. Such district, corporation or municipality shall give public notice of the proposed location of such pole lines or underground lines with a voltage capacity of thirty-four thousand five hundred volts or more which involves the acquisition of rights or interests in more than ten separately-owned tracts by causing to be published a map showing the proposed line route in a legal newspaper of general circulation within the county where such line is to be constructed at least thirty days before negotiating with any person, firm, or corporation

to acquire easements or property for such purposes, and shall consider all objections which may be filed to such location. After securing approval from the ~~State-Railway Commission~~ Public Service Commission and having complied with the provisions of sections 86-301 to 86-332, such public power districts, corporations, and municipalities shall have the right to condemn a right-of-way over and across railroad right-of-way and depot grounds for the purpose of crossing the same. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Sec. 8. That original section 70-301, Reissue Revised Statutes of Nebraska, 1943, is repealed.