

HB 1277 -- CONDEMNATION PROCEEDINGS

SPONSOR: McGaugh

This bill establishes a new method for determining just compensation for certain types of property condemned for the purpose of constructing a high-voltage transmission line. The types of property are agricultural or nonagricultural homestead, rental residential property, and both commercial and noncommercial seasonal residential recreational property.

The property owner must have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which the owner wholly owns in undivided fee. If the utility serves an objection, the circuit court must hold a hearing within 120 days to determine the merits of the objection. The utility has the burden of proof on whether the property selected by the owner is not commercially viable. The owner is limited to one option and cannot expand or modify the election without the utility's consent. The acquisition of land by a utility under this provision must be deemed an acquisition for a public purpose and for use in the utility's business.

If the commissioners or a jury determine that the fair market value of the property under the statutory calculation is more than 120% of the fair market value offered by the condemnor in the written offer, the condemnor must pay three times the difference to the property owner, as well as attorney fees and related valuation expert costs incurred by the property owner.

A condemnor must provide written notice to the property owner that the fair market value offer is provided as required by statute. A condemnor also must provide written notice that it has considered and accepted a proposed alternative location. A condemnor must undertake all commercially feasible steps to implement the property owner's proposed alternative location unless it is impossible to engineer, it crosses environmentally protected lands or waterways, or it would increase project costs by more than two times the fair market value offered by the condemnor.

If a condemnor does not accept any of the proposed alternative locations, the property owner must have the right to have an independent third party appointed by the judge review the evidence supporting the condemnor's conclusions regarding the proposed alternative locations. If the independent third party finds that the condemnor did not act in good faith, the condemnor must lose its right to condemn any property of that property owner.