

HOUSE BILL No. 2691

By Committee on Judiciary

Requested by Allie Devine on behalf of the Kansas Farm Bureau

2-5

1 AN ACT concerning eminent domain; relating to the eminent domain
2 procedure act; requiring landowners whose land is taken by eminent
3 domain for electric transmission lines to be compensated at not less
4 than fair market value multiplied by 150%; amending K.S.A. 26-513
5 and repealing the existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 26-513 is hereby amended to read as follows: 26-
9 513. (a) *Necessity.* Private property shall not be taken or damaged for
10 public use without just compensation.

11 (b) *Taking entire tract.* (1) *Except as provided in paragraph (2), if the*
12 *entire tract of land or interest in such land is taken, the ~~measure of~~*
13 *compensation and measure of damages is the fair market value of the*
14 *property or interest at the time of the taking.*

15 (2) *If the entire tract of land or interest in such land is taken by a*
16 *public utility as defined in K.S.A. 66-104, and amendments thereto, for the*
17 *construction, maintenance or repair of electric transmission lines, the*
18 *compensation and measure of damages shall not be less than the fair*
19 *market value of the property at the time of the taking, multiplied by 150%.*

20 (c) *Partial taking.* (1) *Except as provided in paragraph (2), if only a*
21 *part of a tract of land or interest is taken, the compensation and measure of*
22 *damages is the difference between the fair market value of the entire*
23 *property or interest immediately before the taking; and the value of that*
24 *portion of the tract or interest remaining immediately after the taking.*

25 (2) *If only a part of a tract of land or interest is taken by a public*
26 *utility as defined in K.S.A. 66-104, and amendments thereto, for the*
27 *construction, maintenance or repair of electric transmission lines, the*
28 *compensation and measure of damages shall not be less than the greater*
29 *of:*

30 (A) *The difference between the fair market value of the entire*
31 *property or interest immediately before the taking and the value of that*
32 *portion of the tract or interest remaining immediately after the taking,*
33 *multiplied by 150%; or*

34 (B) *the fair market value of the property taken at the time of the*
35 *taking, multiplied by 150%.*

1 (d) *Factors to be considered.* In ascertaining the amount of
2 compensation and damages, the following nonexclusive list of factors shall
3 be considered if such factors are shown to exist. Such factors are not to be
4 considered as separate items of damages, but are to be considered only as
5 they affect the total compensation and damage under the provisions of
6 subsections (b) and (c) ~~of this section~~. Such factors are:

7 (1) The most advantageous use to which the property is reasonably
8 adaptable.

9 (2) Access to the property remaining.

10 (3) Appearance of the property remaining, if appearance is an
11 element of value in connection with any use for which the property is
12 reasonably adaptable.

13 (4) Productivity, convenience, use to be made of the property taken,
14 or use of the property remaining.

15 (5) View, ventilation and light, to the extent that they are beneficial
16 attributes to the use of which the remaining property is devoted or to
17 which it is reasonably adaptable.

18 (6) Severance or division of a tract, whether the severance is initial or
19 is in aggravation of a previous severance; changes of grade and loss or
20 impairment of access by means of underpass or overpass incidental to
21 changing the character or design of an existing improvement being
22 considered as in aggravation of a previous severance, if in connection with
23 the taking of additional land and needed to make the change in the
24 improvement.

25 (7) Loss of trees and shrubbery to the extent that they affect the value
26 of the land taken, and to the extent that their loss impairs the value of the
27 land remaining.

28 (8) Cost of new fences or loss of fences and the cost of replacing
29 them with fences of like quality, to the extent that such loss affects the
30 value of the property remaining.

31 (9) Destruction of a legal nonconforming use.

32 (10) Damage to property abutting on a right-of-way due to change of
33 grade where accompanied by a taking of land.

34 (11) Proximity of new improvement to improvements remaining on
35 condemnee's land.

36 (12) Loss of or damage to growing crops.

37 (13) That the property could be or had been adapted to a use which
38 was profitably carried on.

39 (14) Cost of new drains or loss of drains and the cost of replacing
40 them with drains of like quality, to the extent that such loss affects the
41 value of the property remaining.

42 (15) Cost of new private roads or passageways or loss of private
43 roads or passageways and the cost of replacing them with private roads or

1 passageways of like quality, to the extent that such loss affects the value of
2 the property remaining.

3 (e) *Fair market value.* "Fair market value" means the amount in terms
4 of money that a well informed buyer is justified in paying and a well
5 informed seller is justified in accepting for property in an open and
6 competitive market, assuming that the parties are acting without undue
7 compulsion. The fair market value shall be determined by use of the
8 comparable sales, cost or capitalization of income appraisal methods or
9 any combination of such methods.

10 Sec. 2. K.S.A. 26-513 is hereby repealed.

11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.