

Sen. Carson, Dist. 14
Sen. Bradley, Dist 8
December 6, 2011
2011-2844s
06/01

Amendment to HB 648

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to eminent domain by public utilities and establishing a committee to
4 investigate procedures for obtaining a hearing for landowners whose property is
5 being considered for eminent domain.
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7 Amend the bill by replacing all after the enacting clause with the following:

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9 1 New Section; Proceedings to Acquire Property or Rights. Amend RSA 371 by inserting after
10 section 1-a the following new section:

11 371:1-b Acquisition Negotiations; Reference to Eminent Domain Prohibited. No public utility,
12 predecessor development entity, or agent of either, shall refer to the use of eminent domain in any
13 landowner negotiations, unless the commission has first specifically authorized its use under this
14 chapter with respect to the affected landowner. Any landowner may file a complaint with the
15 commission under RSA 365:1 alleging violation of this section. Upon a finding of violation, after
16 notice and hearing, the public utility or project-sponsoring affiliate shall be fined up to \$25,000
17 which shall be deposited in the general fund. If a landowner makes an inquiry concerning eminent
18 domain, the public utility, predecessor development entity, or agent of either, may provide the
19 landowner with the commission's contact information without violating this section.

20 2 Right to Enter. Amend RSA 371:2-a to read as follows:

21 371:2-a Right to Enter. When ownership of land, upon or over which a public utility desires to
22 erect facilities, cannot be ascertained without entry to do survey work, or, a public utility shall have
23 filed a petition under RSA 371:1 with respect to a particular tract of land, in either case a public
24 utility shall have the right to enter upon such land for the purpose of surveying and making such
25 other investigation as is necessary to determine the locations of the boundaries of such land and of
26 the facilities it desires to erect thereon or thereover, and to determine the title to, description of, or
27 nature of such land. A public utility desiring to enter land in pursuance of this section shall [~~make~~
28 ~~every reasonable effort to~~] notify *by certified mail* the owner or probable owner or owners thereof of
29 its desire to enter for the purposes aforesaid *at least 30 days* prior to entry. *Notification shall*
30 *include identification of the utility seeking to enter the land, the time and date of the*
31 *proposed entry, and the portion or section of land to be surveyed or investigated. Upon the*
32 *date specified for entry, the persons conducting the survey or investigation shall present*

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1 *themselves to the property owner and show identification.* The public utility shall pay the
2 owner or owners of any land it shall enter in pursuance of the provisions of this section for any
3 actual damage done upon entry.

4 3 New Section; Appraisal Required. Amend RSA 371:2-a by inserting after section 2-a the
5 following new section:

6 371:2-b Appraisal Required.

7 I. A public utility shall have an impartial, qualified appraiser make at least one appraisal of
8 any property proposed to be acquired by eminent domain. The owner shall have a reasonable
9 opportunity to have the property appraised by an independent, qualified appraiser, selected by the
10 owner. The public utility shall reimburse the owner the usual and customary cost of the appraisal
11 up to \$1,500 for each property.

12 II. No petition to acquire property or any interest in property through eminent domain shall
13 be filed under this chapter unless the owner shall have first refused to voluntarily sell the affected
14 property or interest therein for an amount equal to 200 percent of the public utility's appraised value
15 thereof.

16 4 New Paragraph; Residential Owner Option. Amend RSA 371:5-a by inserting after paragraph
17 II the following new paragraph:

18 III. In all cases where residential property is taken pursuant to the provisions of this
19 section, a resident owner shall also be awarded reasonable relocation and housing replacement
20 expenses not to exceed 10 percent of the compensation ordered for the taking. If a residential tenant
21 is also displaced as the result of any taking under this section, the tenant shall be awarded up to 6
22 months of the actual monthly rent being paid by the tenant prior to the notice given under section
23 RSA 371:4, and reasonable relocation and housing replacement expenses not to exceed an additional
24 6 months of such monthly rent.

25 5 New Section; Project Delay; Option to Purchase. Amend RSA 371 by inserting after section 16
26 the following new section:

27 371:16-a Project Delay; Option to Purchase. If, after a period of 5 years, the project for which
28 land or property rights were taken has not commenced, the utility shall offer the person from whom
29 such land or rights were taken the first option to buy such land or rights at the current market
30 value.

31 6 Committee Established. There is established a committee to investigate the procedural rights
32 of the landowner when a petition is presented to the public utilities commission by a utility seeking
33 eminent domain.

34 7 Membership and Compensation.

35 I. The members of the committee shall be as follows:

36 (a) Three members of the senate, appointed by the president of the senate.

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1 (b) Three members of the house of representatives, appointed by the speaker of the
2 house of representatives.

3 II. Members of the committee shall receive mileage at the legislative rate when attending to
4 the duties of the committee.

5 8 Duties. The committee shall investigate the procedures available and potentially available to
6 landowners for obtaining a hearing when their land is the subject of a petition filed with the public
7 utilities commission by a utility seeking to take such property.

8 9 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
9 among the members. The first meeting of the committee shall be called by the first-named senate
10 member. The first meeting of the committee shall be held within 45 days of the effective date of this
11 section. Four members of the committee shall constitute a quorum.

12 10 Report. The committee shall report its findings and any recommendations for proposed
13 legislation to the president of the senate, the speaker of the house of representatives, the senate
14 clerk, the house clerk, the governor, and the state library on or before November 1, 2012.

15 11 Effective Date.

16 I. Sections 1 through 5 of this act shall take effect 60 days after its passage.

17 II. The remainder of this act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill modifies certain requirements pertaining to the taking of land or property rights by a utility. This bill also establishes a committee to investigate procedures for obtaining a hearing by owners of land that may be subject to eminent domain.