

One Hundred Second Legislature - Second Session - 2012

Introducer's Statement of Intent

LB1134

Chairperson: Senator Brad Ashford

Committee: Judiciary

Date of Hearing: February 15, 2012

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB1134 clarifies the uniform procedure to be used in acquiring private property for a public purpose by the State of Nebraska, its political subdivisions and by all public and private utilities, common carriers and agencies. Such sections shall not apply to common carriers regulated by the Federal Railroad Administration of the United States Department of Transportation or the Department of Roads when acquiring property for highway construction or improvements.

LB1134 adds new definitions of agency, property and public purpose to the Section.

The bill provides additional requirements to agencies, including mailed, first class notice to the property owner at least 45 days prior to agency vote or action of full and final approval, a map and plat of the permanent or temporary route, right of way or easement, a description of owner rights, including the right to retain counsel for negotiations, the proper authority in which to file appeal and the projected date on which construction shall commence.

LB1134 requires an agency public hearing on the project and acquisition at least 30 days prior to scheduling a vote or action of full and final approval. Notice of hearing shall be published at least 10 days prior to hearing. Agencies shall abide by Nebraska Open Records laws.

The bill requires that agencies acquire project approval by agency vote, full and final action or any controlling federal or state order, permit or authority prior to exercising the right of eminent domain, as expressed in 76-704 to 76-724. Claiming to have the rights conveyed under eminent domain without having been granted aforementioned authority shall constitute a Class VI misdemeanor per occurrence.

LB1134 provides that no agency shall intimidate, impersonate, deceive or falsely represent or direct another to intimidate, impersonate, deceive or falsely represent an actor claiming to have the rights of eminent domain.

LB1134 provides that in the event two agencies affirmatively approve interest in one or more parcels of land, the county court where the greatest parcel of land exists shall be the court of jurisdiction. There shall be no authority to exercise eminent domain until a final determination has been made by the court.

The bill requires that in the event of an emergency, public notice shall be not less than 14 days prior to agency approval and shall not exceed 10 private property tracts.

Principal Introducer: _____

Senator Bill Avery