

SENATE BILL No. 497

September 24, 1991, Introduced by Senators DI NELLO and
WELBORN and referred to the Committee on State Affairs
and Military/Veteran Affairs.

A bill to amend section 6 of Act No. 87 of the Public Acts
of 1980, entitled as amended

"The uniform condemnation procedures act,"

being section 213.56 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 6 of Act No. 87 of the Public Acts of
2 1980, being section 213.56 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 6. (1) Within the time prescribed to responsively
5 plead after service of a complaint, an owner of the property
6 desiring to challenge the necessity of acquisition of all or part
7 of the property for the purposes stated in the complaint may file
8 a motion in the pending action asking that the necessity be
9 reviewed. The hearing shall be held within 30 days after the
10 filing of the motion.

1 (2) With respect to an acquisition by a public agency, the
2 ~~determination of~~ COURT AT THE HEARING SHALL DETERMINE THE
3 public necessity OF THE ACQUISITION OF THE PARTICULAR PARCEL by
4 that agency. ~~shall be binding on the court in the absence of a~~
5 ~~showing of fraud, error of law, or abuse of discretion.~~ THE
6 DETERMINATION OF PUBLIC NECESSITY BY THE PUBLIC AGENCY SHALL CON-
7 STITUTE A PRIMA FACIE CASE THAT THE ACQUISITION OF THE PARTICULAR
8 PARCEL IS REQUIRED BY THE PUBLIC NECESSITY.

9 (3) With respect to an acquisition by a private agency, the
10 court at the hearing shall determine the public necessity of the
11 acquisition of the particular parcel. The granting of a per-
12 manent or temporary certificate by the public service commission
13 shall constitute a prima facie case that the project, in further-
14 ance of which the particular parcel would be acquired, is
15 required by the public convenience and necessity.

16 (4) The court shall render a decision within 60 days after
17 the date on which the hearing is first scheduled.

18 (5) The court's determination of a motion to review neces-
19 sity shall be considered as a final judgment.

20 (6) Notwithstanding section 309 of THE REVISED JUDICATURE
21 ACT OF 1961, Act No. 236 of the Public Acts of 1961, being sec-
22 tion 600.309 of the Michigan Compiled Laws, an order of the court
23 ~~upholding or~~ determining public necessity or upholding the
24 validity of the condemnation proceeding is appealable to the
25 court of appeals only by leave of that court pursuant to the gen-
26 eral court rules. In the absence of appeal of the order timely
27 filed, an appeal shall not be granted and the order is not

1 appealable as part of an appeal from a judgment as to just
2 compensation.

3 (7) If a motion to review necessity is not filed as provided
4 in this section, necessity shall be conclusively presumed to
5 exist and the right to have necessity reviewed or ~~further~~
6 FURTHER considered is waived.