



HOUSE BILL No. 5607

June 2, 1994, Introduced by Reps Stallworth Points, Palamara Profit, Dobronski, Bennane, Saunders, Porreca, LeTarte, Bullard, DeMars, Gustafson and Galloway and referred to the Committee on Public Utilities

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 public necessity by that agency ~~shall be~~ IS
3 binding on the court in the absence of a showing of fraud error
4 of law or abuse of discretion

5 (3) ~~With~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION
6 WITH respect to an acquisition by a private agency the court at
7 the hearing shall determine the public necessity of the acquisi-
8 tion of the particular parcel The granting of a permanent or
9 temporary certificate by the public service commission ~~shall~~
10 ~~constitute~~ CONSTITUTES a prima facie case that the project ~~—~~
11 in furtherance of which the particular parcel would be acquired
12 ~~—~~ is required by the public convenience and necessity THE
13 GRANTING OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY BY
14 THE PUBLIC SERVICE COMMISSION PURSUANT TO THE HIGH-VOLTAGE TRANS-
15 MISSION CERTIFICATION ACT IS BINDING ON THE COURT

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~~ IS a final judgment

20 (6) Notwithstanding section 309 of Act No 236 of the
21 Public Acts of 1961 being section 600 309 of the Michigan
22 Compiled Laws an order of the court upholding or determining
23 public necessity or upholding the validity of the condemnation
24 proceeding is appealable to the court of appeals only by leave of
25 that court pursuant to the general court rules In the absence
26 of A TIMELY FILED appeal of the order, ~~timely filed,~~ an appeal

1 shall not be granted and the order is not appealable as part of
2 an appeal from a judgment as to just 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

7 Section 2 This amendatory act shall not take effect unless
8 Senate Bill No _____ or House Bill No 5606 (request
9 no 06636'94) of the 87th Legislature is enacted into law