

LEGISLATIVE BILL 653

Approved by the Governor February 18, 1974

Introduced by Goodrich, 20

AN ACT to amend sections 25-2502, 25-2504, and 25-2505, Revised Statutes Supplement, 1973, relating to acquiring private property; to define a term; to provide for hearings as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 25-2502, Revised Statutes Supplement, 1973, be amended to read as follows:

25-2502. As used in sections 25-2501 to 25-2506 and 70-301, unless the context otherwise requires:

(1) Agency shall include the State of Nebraska and any department, board, commission, or similar entity thereof which possesses the authority to acquire property either with or without the use of eminent domain, any political subdivision of the State of Nebraska, and any privately-owned public utility corporation or common carrier not exempted by section 25-2501 which possesses the authority to acquire property through the use of eminent domain; and

(2) Property shall include any right or interest in real property, including but not limited to easements, but shall not include easements for public utilities located adjacent to and within ten feet of a public road right-of-way; and

(3) Negotiations shall mean communications between representatives of the agency and the property owner or his representatives who are specifically authorized to attempt to reach agreement on terms by which the agency shall acquire such property.

Sec. 2. That section 25-2504, Revised Statutes Supplement, 1973, be amended to read as follows:

25-2504. After giving notice pursuant to section 25-2503, the agency shall hold a public hearing on the proposed project and acquisition at least thirty days before beginning negotiations for such acquisition. Notice of such public hearing shall be published in a legal newspaper of general circulation in the county or counties in which the hearing is to be held at least ten days prior to such hearing. when the proposed

acquisition consists of property from more than one county, a hearing shall be held in the county seat of each county. When the proposed acquisition is countywide in scope, the hearing shall be held at the county seat. When the proposed acquisition involves a lesser area, the hearing shall be held in a location convenient to the property to be acquired. When the proposed acquisition involves property located outside this state, the hearing shall be held at the principal office of the agency.

At the hearing, the agency shall explain the nature of and necessity for the project for which it seeks to acquire property, the reasons for selecting the particular location or route, the right of each owner of property to be represented by an attorney and to negotiate and accept or reject the offer of damages which will be sustained by the proposed acquisition, and the right to require that such damages be determined pursuant to the procedures for acquisition by eminent domain. The agency shall hear and consider any objections from the persons-to-be-affected any person.

If the agency relocates the proposed project following such hearing and such relocation would require the acquisition of rights or interests in the property of more than ten additional owners of separately-owned tracts to whom notice was not previously given, the agency shall give notice as provided in section 25-2503 to such additional owners and shall hold a public hearing as provided in this section with reference solely to that part of the project which has been relocated; Provided, that the time restrictions in section 25-2503 and this section shall not be applicable to any such additional notice, hearing, or negotiations.

Sec. 3. That section 25-2505, Revised Statutes Supplement, 1973, be amended to read as follows:

25-2505. The provisions of sections--25-2504--to 25-2506 and 70-304 relating to public notice--and--public hearings shall not apply to any agency acquiring property of a willing buyer, willing seller basis or by gift--or other form of voluntary transfer when no authority exists to exercise eminent domain proceedings. Any agency acquiring property on a willing buyer-willing seller basis, or by gift, or devise, or any other form of voluntary transfer shall not be required to give the notice set forth in section 25-2503 if such agency has no planned project involving acquisition of the specific property, or any part thereof, through the use of eminent domain or the agency has no authority to use eminent domain for acquisition of property, but such agency shall hold a public hearing at least thirty days prior to

consummation of the transaction whereby such property is acquired which public hearing and public notice of the same shall comply, where applicable, with section 25-2504.

Sec. 4. That original sections 25-2502, 25-2504, and 25-2505, Revised Statutes Supplement, 1973, are repealed.