

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 394

Introduced by Erdman, 47.

Read first time January 12, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to eminent domain; to amend section 76-710.01,
- 2 Reissue Revised Statutes of Nebraska; to change provisions relating
- 3 to eminent domain; to repeal the original section; and to declare an
- 4 emergency.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-710.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 76-710.01 (1) Where any condemner shall have taken or attempts to
4 take property for public use, the damages for taking such property shall
5 be determined according to the laws of this state irrespective of whether
6 the condemner may be reimbursed for a part of such damage from the
7 federal government. ~~Such and such~~ damages shall include all compensable
8 damages suffered by the condemnee, which shall be determined as follows:
9 ~~including but not limited to reasonable severance damages and condemnee's~~
10 ~~abstracting expenses.~~

11 (a) For property other than agricultural land, the damages shall
12 include:

13 (i) The fair market value of the condemned property;

14 (ii) Reasonable severance damages; and

15 (iii) The condemnee's abstracting expenses; and

16 (b) For agricultural land, the damages shall include:

17 (i) Two times the fair market value of the condemned property;

18 (ii) Reasonable severance damages; and

19 (iii) The condemnee's abstracting expenses.

20 (2) In determining the amount of ~~such~~ severance damages under
21 subsection (1) of this section, account shall be taken, together with
22 other relevant factors, of the economic effect, if any, caused by the
23 severance therefrom of the part taken or sought to be taken upon the
24 whole of such property as a going concern as it will be and remain after
25 the severance. For agricultural land, severance damages shall include the
26 replacement cost for any of the following located on the condemned
27 property: Dwellings, garages, sheds, barns, wells, septic systems,
28 fences, and any other permanent structures.

29 (3) Any decrease or increase in the fair market value of real
30 property prior to the date of valuation caused by the public improvement
31 for which such property is acquired, or by the likelihood that the

1 property would be acquired for such improvement, other than due to
2 physical deterioration within the reasonable control of the owner, shall
3 be disregarded in determining the compensation for the property.

4 (4) The provisions of this section shall apply to any case now or
5 hereafter pending.

6 Sec. 2. Original section 76-710.01, Reissue Revised Statutes of
7 Nebraska, is repealed.

8 Sec. 3. Since an emergency exists, this act takes effect when
9 passed and approved according to law.