



# SENATE BILL No. 409

March 16, 1995, Introduced by Senators BENNETT and DUNASKISS and referred to the Committee on Technology and Energy.

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

1 reviewed. The hearing shall be held within 30 days after the  
2 filing of the motion.

3 (2) With respect to an acquisition by a public agency, the  
4 determination of public necessity by that agency ~~shall be~~ IS  
5 binding on the court in the absence of a showing of fraud, error  
6 of law, or abuse of discretion.

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

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

20 (5) The court's determination of a motion to review neces-  
21 sity ~~shall be considered as~~ IS a final judgment.

22 (6) Notwithstanding section 309 of THE REVISED JUDICATURE  
23 ACT OF 1961, Act No. 236 of the Public Acts of 1961, being sec-  
24 tion 600.309 of the Michigan Compiled Laws, an order of the court  
25 upholding or determining public necessity or upholding the valid-  
26 ity of the condemnation proceeding is appealable to the court of  
27 appeals only by leave of that court pursuant to the general court

1 rules. In the absence of A TIMELY FILED appeal of the order,  
2 ~~timely filed,~~ an appeal shall not be granted and the order is  
3 not appealable as part of an appeal from a judgment as to just  
4 compensation.

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

9 Section 2. This amendatory act shall not take effect unless  
10 Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
11 no. 04332'95) of the 88th Legislature is enacted into law.