

SECOND REGULAR SESSION

HOUSE BILL NO. 1504

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor) AND CROWELL (Co-sponsor).

Read 1st time February 17, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4591L.011

AN ACT

To repeal section 227.120, RSMo, and to enact in lieu thereof one new section relating to the assessment of damages for the restriction or loss of access to highways when eminent domain is exercised, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 227.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.120, to read as follows:

227.120. 1. The state highways and transportation commission shall have power to purchase, lease, or condemn, lands in the name of the state of Missouri for the following purposes when necessary for the proper and economical construction and maintenance of state highways:

(1) Acquiring the right-of-way for the location, construction, reconstruction, widening, improvement or maintenance of any state highway or any part thereof;

(2) Acquiring bridges or sites therefor and ferries, including the rights and franchises for the maintenance and operation thereof, over navigable streams, at such places as the state highways and transportation commission shall have authority to construct, acquire or contribute to the cost of construction of any bridge;

(3) Acquiring the right-of-way for the location, construction, reconstruction, widening, improvement or maintenance of any highway ordered built by the bureau of public roads of the Department of Agriculture of the United States government;

(4) Obtaining road building or road maintenance materials or plants for the manufacture or production of such materials and acquiring the right-of-way thereto; also acquiring the right-of-way to such plants as are privately owned when necessary for the proper and economical construction of the state highway system;

- 18 (5) Changing gradients in any state highway;
- 19 (6) Establishing detours in connection with the location, construction, reconstruction,
20 widening, improvement or maintenance of any state highway or any part thereof;
- 21 (7) Changing the channels of any stream and providing for drainage ditches when
22 necessary for the proper construction or maintenance of any state highway;
- 23 (8) Eliminating grade crossings;
- 24 (9) Acquiring water supply and water power sites and necessary lands for use in
25 connection therewith, including rights-of-way to any such sites;
- 26 (10) Acquiring sites for garages and division offices and for storing materials, machinery
27 and supplies;
- 28 (11) Acquiring lands for sight distances along any state highway or any portion thereof
29 whenever necessary, and also acquiring lands within wyes formed by junctions of state highways,
30 or junctions of state highways and other public highways;
- 31 (12) Acquiring lands or interests therein for the purpose of depositing thereon excess
32 excavated, or other materials produced in the construction, reconstruction, widening,
33 improvement or maintenance of any state highway;
- 34 (13) Acquiring lands for any other purpose necessary for the proper and economical
35 construction of the state highway system for which the commission may have authority granted
36 by law. If condemnation becomes necessary, the commission shall have the power to proceed
37 to condemn such lands in the name of the state of Missouri, in accordance with the provisions
38 of chapter 523, RSMo, insofar as the same is applicable to the said state highways and
39 transportation commission, and the court or jury shall take into consideration the benefits to be
40 derived by the owner, as well as the damage sustained thereby. The state highways and
41 transportation commission also shall have the same authority to enter upon private lands to
42 survey and determine the most advantageous route of any state highway as granted, under section
43 388.210, RSMo, to railroad corporations.

44 **2. In any case in which the commission exercises eminent domain involving a taking**
45 **of real estate, the court, commissioners, and jury shall consider the restriction of or loss of**
46 **access to any adjacent highway as an element in assessing the damages. As used in this**
47 **subsection, "restriction of or loss of access" includes, but is not limited to, the prohibition**
48 **of making right or left turns into or out of the real estate involved, provided that such**
49 **access was present before the proposed improvement or taking.**

Section B. Because immediate action is necessary to ensure just compensation for the
2 restriction on loss of property rights for owners of real estate, the repeal and reenactment of
3 section A of this act is deemed necessary for the immediate preservation of the public health,
4 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of

5 the constitution, and the repeal and reenactment of section A of this act shall be in full force and
6 effect upon its passage and approval.