

First Extraordinary Session, 2005

HOUSE BILL NO. 15

BY REPRESENTATIVES CAZAYOUX, QUEZAIRE, AND SALTER

TRANSPORTATION DEPT: Provides relative to the contents of the petition to expropriate property for a design-build project undertaken by the Department of Transportation and Development (Item #47)

1 AN ACT

2 To enact R.S. 48:442.1, relative to the expropriation of property for design-build projects by
3 the Department of Transportation and Development; to provide relative to the
4 content of the petition to expropriate such property; to provide relative to
5 information which must be annexed to such petition; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 48:442.1 is hereby enacted to read as follows:

9 §442.1 Contents of petition for expropriation; property needed for design-build
10 projects; place of filing

11 Notwithstanding the provisions of R.S. 48:442, the rights of expropriation
12 granted by this Part shall be exercised for design-build projects authorized according
13 to the provisions of R.S. 48:250.2 in the following manner:

14 (1) A petition shall be filed by the plaintiff in the district court of the parish
15 in which the property to be expropriated is situated. However, where the property
16 to be expropriated extends into two or more parishes and the owner of the property
17 resides in one of them, the petition shall be filed in the district court of the parish
18 where the owner resides. If the owner does not reside in any one of the parishes into
19 which the property extends, the petition may be filed in any one of the parishes. In

1 all such cases, the court wherein the petition is filed shall have jurisdiction to
2 adjudicate as to all the property involved.

3 (2) The petition shall contain a statement of the purpose for which the
4 property is to be expropriated, describing the property necessary therefor with a plan
5 of the same, a description of the improvement thereon, if any, and the name of the
6 owner or owners as shown in the public records.

7 (3) The petition shall have annexed thereto the following:

8 (a) A certified copy of a certificate of authorization to expropriate executed
9 by the secretary of the department, declaring that the taking is necessary or useful for
10 the purposes of this Part.

11 (b) A certificate signed by the chief engineer or, in his absence, his chief
12 assistant, declaring that he has fixed the right-of-way in a manner sufficient in his
13 judgment to provide presently and in the future for the public interest, safety, and
14 convenience of the traveling public and has made a determination of the amount and
15 location of the property required for the purposes set forth in the petition and that in
16 his opinion the property is neither excessive or inadequate for such purposes.

17 (c) An itemized statement of the amount of money estimated to be the full
18 extent of the owner's loss for the taking or the damage, or both, as the case may be,
19 the methodology used in the estimate, and all of the information required by R.S.
20 48:443 relative to estimators. It shall be signed by those who made the estimate,
21 showing the capacity in which they acted and the date on which it was made. The
22 real estate administrator or his designated representative shall signify his approval
23 on the face thereof. It shall not be grounds to dismiss the taking if it is shown that
24 the estimate is or may be less than the full extent of the owner's loss or that the
25 estimate was made without consideration of final plans.

26 Section 2. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Cazayoux

HB No. 15

Abstract: Sets forth the requirements of the petition to expropriate by declaration of taking property needed by the Department of Transportation and Development for construction of design-build projects and the information which must be annexed to such petition.

Present law requires a petition for expropriation by declaration of taking of property needed for a highway project to be filed by the plaintiff in the district court of the parish in which the property is situated. However, if the property extends into two or more parishes and the owner of the property resides in one of them, the petition shall be filed in the district court of the parish where the owner resides. If the owner does not reside in any one of the parishes into which the property extends, the petition may be filed in any one of the parishes. The court where the petition is filed shall have jurisdiction as to all the property involved. Proposed law retains present law and its applicability to property needed for design-build projects.

Present law requires the petition to expropriate include a statement of the purpose for which the property is to be expropriated, describing the property with a plan of the same and a description of the improvements thereon, if any, and the name of the owners as shown in the public records. Proposed law retains present law and its applicability to property needed for design-build projects.

Present law requires the following information to be annexed to the petition to expropriate and proposed law retains or amends these provisions for design-build projects as indicated:

- (1) A certified copy of a certificate of authorization to expropriate executed by the secretary of the department, declaring that the taking is necessary or useful for the construction of a highway project. Proposed law retains present law.
- (2) A certificate signed by the chief engineer or, in his absence, his principal assistant, declaring that he has fixed the right-of-way in a manner sufficient in his judgment to provide presently and in the future for the public interest, safety, and convenience and a second certificate signed by the chief engineer, the road design engineer, and, if appropriate, by the bridge design engineer, declaring that the location and design of the proposed improvements are in accordance with the best modern practices. Proposed law requires a single certificate signed by the chief engineer or his chief assistant declaring that the right-of-way has been fixed in a sufficient manner and that a determination of the amount and location of the property required for the purposes set forth in the petition has been made and that the property is neither excessive nor inadequate for such purposes.
- (3) An itemized statement of the amount of money estimated to be the full extent of the owner's loss for the taking or the damage, or both, the methodology used in the estimate, and all of the information required by present law relative to estimators. It shall be signed by those who made the estimate, showing the capacity in which they acted and the date on which it was made. The real estate administrator or his designated representative shall signify his approval on the face thereof. It shall not

be grounds to dismiss the taking if it is shown that the estimate is or may be less than the full extent of the owner's loss. Proposed law, for design-build projects, further provides that making the estimate without consideration of final plans is also not grounds for dismissal.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 48:442.1)