

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1944**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Judiciary April 3, 2006 with recommendation that House Committee Substitute for House Bill No. 1944 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4100L.06C

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**AN ACT**

To repeal sections 99.120, 99.460, 100.420, 353.130, 523.040, 523.055, 523.060, 523.200, and 523.205, RSMo, and to enact in lieu thereof twenty-three new sections relating to eminent domain, with a severability clause.

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

Section A. Sections 99.120, 99.460, 100.420, 353.130, 523.040, 523.055, 523.060,  
2 523.200, and 523.205, RSMo, are repealed and twenty-three new sections enacted in lieu thereof,  
3 to be known as sections 99.120, 99.460, 100.420, 353.130, 523.040, 523.055, 523.060, 523.200,  
4 523.205, 523.250, 523.253, 523.256, 523.259, 523.261, 523.262, 523.265, 523.271, 523.274,  
5 523.277, 523.283, 1, 2, and 3, to read as follows:

99.120. An authority **whose board members are appointed by one or more elected**  
2 **officials** shall have the right to acquire by the exercise of the power of eminent domain any real  
3 property in fee simple or other estate which it may deem necessary for its purposes under  
4 sections 99.010 to 99.230 after the adoption by it of a resolution declaring that the acquisition  
5 of the real property described therein is necessary for such purposes. An authority may exercise  
6 the power of eminent domain in the manner provided for corporations in chapter 523, RSMo[;  
7 or it may exercise the power of eminent domain in the manner provided by any other applicable  
8 statutory provision for the exercise of the power of eminent domain]. Property already devoted  
9 to a public use may be acquired in like manner, provided that no real property belonging to the  
10 city, the county, the state or any political subdivision thereof may be acquired without its consent.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

99.460. 1. An authority **whose board members are appointed by one or more elected**  
2 **officials** shall have the right to acquire by the exercise of the power of eminent domain any real  
3 property which it may deem necessary for a land clearance project or for its purposes under this  
4 law after the adoption by it of a resolution declaring that the acquisition of the real property  
5 described therein is necessary for such purposes. An authority may exercise the power of  
6 eminent domain in the manner and under the procedure provided for corporations in [sections  
7 523.010 to 523.070, inclusive, and 523.090 and 523.100] **chapter 523**, RSMo, and acts  
8 amendatory thereof or supplementary thereto; [or it may exercise the power of eminent domain  
9 in the manner now or which may be hereafter provided by any other statutory provision available  
10 to the community,] and, as to an authority in a constitutional charter city in the manner provided  
11 in the charter of said city for the exercise of the power of eminent domain, **in addition to**  
12 **complying with such requirements of chapter 523, RSMo.**

13 2. Property already devoted to a public use may be acquired in like manner, provided that  
14 no real property belonging to the municipality, the county or the state may be acquired without  
15 its consent.

100.420. 1. An authority **whose board members are appointed by one or more**  
2 **elected officials** shall have the right to acquire by the exercise of the power of eminent domain  
3 any real property which it may deem necessary for a project or for its purposes under this law  
4 after the adoption by it of a resolution declaring that the acquisition of the real property described  
5 therein is necessary for such purposes. Any authority may exercise the power of eminent domain  
6 in the manner and under the procedure provided for corporations in [sections 523.010 to 523.070,  
7 inclusive, and 523.090 and 523.100] **chapter 523**, RSMo, and acts amendatory thereof or  
8 supplementary thereto; [or it may exercise the power of eminent domain in the manner now or  
9 which may be hereafter provided by any other statutory provision available to the city,] and, as  
10 to an authority in a constitutional charter city, in the manner provided in the charter of said city  
11 for the exercise of the power of eminent domain, **in addition to complying with such**  
12 **requirements of chapter 523, RSMo.**

13 2. Property already devoted to a public use may be acquired in like manner; provided that  
14 no real property belonging to the municipality, the county or the state may be acquired without  
15 its consent.

353.130. 1. An urban redevelopment corporation may acquire real property or secure  
2 options in its own name or, in the name of nominees, it may acquire real property by gift, grant,  
3 lease, purchase, or otherwise.

4 2. An urban redevelopment corporation **operating pursuant to a redevelopment**  
5 **agreement with a municipality for a particular redevelopment area, which agreement was**  
6 **executed prior to August 31, 2006**, shall have the right to acquire by the exercise of the power

7 of eminent domain any real property **in such redevelopment area** in fee simple or other estate  
8 which is necessary to accomplish the purpose of this chapter, under such conditions and only  
9 when so empowered by the legislative authority of the cities affected by this chapter.

10 3. An urban redevelopment corporation **operating pursuant to a redevelopment**  
11 **agreement with a municipality for a particular redevelopment area, which agreement was**  
12 **executed prior to August 31, 2006**, may exercise the power of eminent domain **in such**  
13 **redevelopment area** in the manner provided for corporations in chapter 523, RSMo; or it may  
14 exercise the power of eminent domain in the manner provided by any other applicable statutory  
15 provision for the exercise of the power of eminent domain. Property already devoted to a public  
16 use may be acquired in like manner, provided that no real property belonging to any city, county,  
17 or the state, or any political subdivision thereof may be acquired without its consent.

523.040. 1. The court, or judge thereof in vacation, on being satisfied that due notice  
2 of the pendency of the petition has been given, shall appoint three disinterested commissioners,  
3 who shall be residents of the county in which the real estate or a part thereof is situated, to assess  
4 the damages which the owners may severally sustain by reason of such appropriation, who,  
5 **within forty-five days after appointment by the court which may be extended to a date**  
6 **certain with good cause shown, after considering the factors provided in subsection 3 of**  
7 **this section**, after having viewed the property, shall return to the clerk of such court, under oath,  
8 their report in duplicate, of such assessment of damages, setting forth the amount of damages  
9 allowed to the person or persons named as owning or claiming the tract of land condemned, and  
10 should more than one tract be condemned in the petition, then the damages allowed to the owner,  
11 owners, claimant or claimants of each tract, respectively, shall be stated separately, together with  
12 a specific description of the tracts for which such damages are assessed; and the clerk shall file  
13 one copy of said report in his office and record the same in the order book of the court, and he  
14 shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where  
15 the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who  
16 shall record the same in his office, and index each tract separately as provided in section 59.440,  
17 RSMo, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and  
18 thereupon such company shall pay to the clerk the amount thus assessed for the party in whose  
19 favor such damages have been assessed; and on making such payment it shall be lawful for such  
20 company to hold the interest in the property so appropriated for the uses prescribed in this  
21 section; and upon failure to pay the assessment, the court may, upon motion and notice by the  
22 party entitled to such damages, enforce the payment of the same by execution, unless the said  
23 company shall, within ten days from the return of such assessment, elect to abandon the proposed  
24 appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the

25 clerk of the court, and entered on the minutes of the court, and as to so much as is thus  
26 abandoned, the assessment of damages shall be void.

27 **2. Prior to the issuance of any report under subsection 1 of this section, a**  
28 **commissioner shall notify all named parties no less than five days prior to the viewing of**  
29 **the property of their opportunity to accompany the commissioners on a viewing of the**  
30 **property and of their opportunity to present information to the commissioners.**

31 **3. The commissioners shall consider the following factors: comparable sales in the**  
32 **area; current use of the property; fair market value of the property based upon its highest**  
33 **and best use; availability of comparable property in the area; and any other relevant**  
34 **factors.**

35 **4. The commissioners shall view the property, hear arguments, and review other**  
36 **relevant information that may be offered by the parties.**

523.055. In any action to condemn lands under the power of eminent domain, where the  
2 condemnor has paid into the office of the clerk of the circuit court the amount of damages  
3 assessed by commissioners pursuant to law, the circuit clerk shall give the owners or those in  
4 possession written notice of such fact within five days. If the owners or those in possession do  
5 not deliver possession of the property condemned within ten days after the receipt of notice of  
6 the payment of the award, then on the request of the condemnor the court shall issue a writ of  
7 possession directing the sheriff to deliver the possession of such property to the condemnor  
8 forthwith; except that the court may upon the motion of [said] **the occupants or** owners grant  
9 them such extension of time, not to exceed ninety days, as the court finds to be reasonable under  
10 all the circumstances. The writ of possession shall be executed in the manner provided by law  
11 for the execution of writs of possession in ejectment suits for the recovery of land. If a writ of  
12 possession is issued or a motion filed asking for an extension [by said owners], then all costs  
13 accrued in executing the writ and in the hearing of the motion may be assessed against the said  
14 owners.

523.060. **1.** Any plaintiff or defendant, individual or corporate, shall have the right of  
2 trial by jury of twelve persons, if either party file exceptions to the award of commissioners in  
3 any condemnation case.

4 **2. Such jury shall consider the same factors as provided in subsection 3 of section**  
5 **523.040.**

523.200. As used in sections 523.200 to 523.215, the following words mean:

2 (1) "Displaced person", any person that moves from the real property or moves his  
3 personal property from the real property permanently and voluntarily as a direct result of the  
4 acquisition, rehabilitation or demolition of, or the written notice of intent to acquire such real  
5 property, in whole or in part, for a public purpose;

6 (2) "Public agency", the state of Missouri or any political subdivision or any branch,  
7 bureau or department thereof, **any public school district**, and any quasi-public corporation  
8 created or existing by law which are authorized to acquire real property for public purpose and  
9 which acquire any such property either partly or wholly with aid or reimbursement from federal  
10 funds;

11 (3) "Urban redevelopment corporation", as defined in section 353.020, RSMo.

12 523.205. 1. Any public agency as defined in section 523.200 which is required, as a  
13 condition to the receipt of federal funds, to give relocation assistance to any displaced person is  
14 hereby authorized and directed to give similar relocation assistance to displaced persons when  
15 the property involved is being acquired for the same public purpose through the same procedures,  
16 and is being purchased solely through expenditure of state or local funds.

17 2. The governing body of any city, or agency thereof, prior to approval of a plan, project  
18 or area for redevelopment under the operation of chapter 99, RSMo, chapter 100, RSMo, or  
19 chapter 353, RSMo, which proposes or includes within its provisions or necessitates  
20 displacement of persons, when such displacement is not subject to the provisions of the Federal  
21 Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections  
22 4601 to 4655, as amended) or subsection 1 of this section, shall establish by ordinance or rule  
23 a relocation policy which shall include, but not be limited to, the provisions and requirements  
24 of subsections 2 to 15 of this section, or in lieu thereof, such relocation policy shall contain  
25 provisions and requirements which are equivalent to the requirements of the Federal Uniform  
26 Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections  
27 4601 to 4655, as amended).

28 3. As used in this section, the following terms shall mean:

29 (1) "Business", any lawful activity that is conducted:

30 (a) Primarily for the purchase, sale or use of personal or real property or for the  
manufacture, processing or marketing of products or commodities; or

(b) Primarily for the sale of services to the public;

(2) "Decent, safe and sanitary dwelling", a dwelling which meets applicable housing and  
occupancy codes. The dwelling shall:

(a) Be structurally sound, weathertight and in good repair;

(b) Contain a safe electrical wiring system;

(c) Contain an adequate heating system;

(d) Be adequate in size with respect to the number of rooms needed to accommodate the  
displaced person; and

(e) For a handicapped person, be free of any barriers which would preclude reasonable  
ingress, egress or use of the dwelling;

31 (3) "Handicapped person", any person who is deaf, legally blind or orthopedically  
32 disabled to the extent that acquisition of another residence presents a greater burden than other  
33 persons would encounter or to the extent that modifications to the replacement residence would  
34 be necessary;

35 (4) "Initiation of negotiations", the delivery of the initial written offer of just  
36 compensation by the acquiring entity, to the owner of the real property, to purchase such real  
37 property for the project, or the notice to the person that he will be displaced by rehabilitation or  
38 demolition;

39 (5) "Person", any individual, family, partnership, corporation, or association.

40 4. Every urban redevelopment corporation acquiring property within a redevelopment  
41 area shall submit a relocation plan as part of the redevelopment plan.

42 5. Unless the property acquisition under the operation of chapter 99, RSMo, chapter 100,  
43 RSMo, or chapter 353, RSMo, is subject to federal relocation standards or subsection 1 of this  
44 section, the relocation plan shall provide for the following:

45 (1) Payments to all eligible displaced persons, as defined, who occupied the property to  
46 be acquired for not less than ninety days prior to the initiation of negotiations who are required  
47 to vacate the premises;

48 (2) A program for identifying special needs of displaced persons with specific  
49 consideration given to income, age, size of family, nature of business, availability of suitable  
50 replacement facilities and vacancy rates of affordable facilities;

51 (3) A program for referrals of displaced persons with provisions for a minimum of three  
52 decent, safe and sanitary housing referrals for residential persons or suitable referral sites for  
53 displaced businesses, a minimum of ninety days' notice of referral sites for handicapped  
54 displaced persons and sixty days' notice of referral sites for all other displaced persons prior to  
55 the date such displaced persons are required to vacate the premises, and arrangements for  
56 transportation to inspect referral sites; and

57 (4) Every displaced person shall be given a ninety-day notice to vacate, prior to the date  
58 such displaced person is required to vacate the premises.

59 6. All displaced residential persons eligible for payments shall be provided with  
60 relocation payments based upon one of the following, at the option of the person:

61 (1) A [five-hundred-dollar] **one-thousand-dollar** fixed payment; or

62 (2) Actual reasonable costs of relocation including, **but not limited to**, actual moving  
63 costs, utility deposits, key deposits, storage of personal property up to one month, utility transfer  
64 and connection fees and other initial rehousing deposits including first and last month's rent and  
65 security deposit. **Such costs of relocation shall not include the cost of a replacement**  
66 **property or any capital improvements thereto.**

67 7. All displaced businesses eligible for payments shall be provided with relocation  
68 payments based upon the following, at the option of the business:

69 (1) A [one-thousand-five-hundred-dollar] **three-thousand-dollar** fixed payment; or

70 (2) Actual costs of moving including costs for packing, crating, disconnection,  
71 dismantling, reassembling and installing all personal equipment and costs for relettering similar  
72 signs and similar replacement stationery, **and other reasonable costs of moving. Such costs**  
73 **of relocation shall not include the cost of a replacement property or any capital**  
74 **improvements thereto.**

75 8. If a displaced person demonstrates the need for an advance relocation payment, in  
76 order to avoid or reduce a hardship, the developer or public agency shall issue the payment  
77 subject to such safeguards as are appropriate to ensure that the objective of the payment is  
78 accomplished. Payment for a satisfactory claim shall be made within thirty days following  
79 receipt of sufficient documentation to support the claim. All claims for relocation payment shall  
80 be filed with the displacing agency within six months after:

81 (1) For tenants, the date of displacement;

82 (2) For owners, the date of displacement or the final payment for the acquisition of the  
83 real property, whichever is later.

84 9. Any displaced person, who is also the owner of the premises, may waive relocation  
85 payments as part of the negotiations for acquisition of the interest held by such person. Such  
86 waiver shall be in writing, shall disclose the person's knowledge of the provisions of this section  
87 and his entitlement to payment and shall be filed with the acquiring public agency.

88 10. All persons eligible for relocation benefits shall be notified in writing of the  
89 availability of such relocation payments and assistance, with such notice to be given concurrently  
90 with the notice of referral sites as required in subdivision (3) of subsection 5 of this section.

91 11. Any urban redevelopment corporation, its assigns or transferees, which have been  
92 provided any assistance under the operation of chapter 99, RSMo, chapter 100, RSMo, chapter  
93 353, RSMo, or this chapter, with land acquisition by the local governing body, shall be required  
94 to make a report to the local governing body or appropriate public agency which shall include,  
95 but not be limited to, the addresses of all occupied residential buildings and structures within the  
96 redevelopment area and the names and addresses of persons displaced by the redeveloper and  
97 specific relocation benefits provided to each person, as well as a sample notice provided to each  
98 person.

99 12. An urban redevelopment corporation which fails to comply with the relocation  
100 requirements provided in this section shall not be eligible for tax abatement as provided for in  
101 chapter 353, RSMo.

102           13. The requirements set out in this section shall be considered minimum standards. In  
103 reviewing any proposed relocation plan under the operation of chapter 99, RSMo, chapter 100,  
104 RSMo, or chapter 353, RSMo, the local governing body or public agency shall determine the  
105 adequacy of the proposal and may require additional elements to be provided.

106           14. Relocation assistance shall not be provided to any person who purposely resides or  
107 locates his business in a redevelopment area solely for the purpose of obtaining relocation  
108 benefits.

109           15. The provisions of sections 523.200 and 523.205 shall apply to land acquisitions  
110 under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, filed for  
111 approval, approved or amended on or after August 31, 1991.

**523.250. 1. At least thirty days before filing of a condemnation petition seeking to  
2 acquire an interest in real property, the condemning authority shall provide the owner of  
3 record of such property with a written notice concerning the intended acquisition. Such  
4 notice shall include:**

5           **(1) Identification of the interest in real property to be acquired, including the estate  
6 or interest to be acquired and a legal description of the same;**

7           **(2) The purpose or purposes for which the property is to be acquired;**

8           **(3) An appraisal in accordance with subsection 2 of this section, or, if the damages  
9 due to the taking are less than fifteen thousand dollars, based upon the condemning  
10 authority's good faith belief, a summary of such damages; and**

11           **(4) A statement that the property owner has the right to:**

12           **(a) Seek legal counsel at the owner's expense;**

13           **(b) Make a counteroffer and engage in further negotiations;**

14           **(c) Obtain such owner's own appraisal of just compensation;**

15           **(d) Have just compensation determined preliminarily by court-appointed  
16 condemnation commissioners and, ultimately, by a jury;**

17           **(e) Contest the right to condemn in the condemnation proceeding; and**

18           **(f) Exercise the rights to request vacation of an easement under the procedures and  
19 circumstances provided for in section 3 of this act.**

20

21 **An owner may waive the requirements of this subsection prescribed above in a writing  
22 executed by the owner.**

23           **2. Where the condemning authority, based upon its good faith belief, has  
24 determined that the fair market value of the condemned property exceeds fifteen thousand  
25 dollars, the condemning authority shall provide the owner with a copy of a summary of the  
26 damages caused by the condemnation, including an appraisal prepared by a state-licensed**



27 or state-certified real estate appraiser at the time the notice required by this subsection is  
28 given. For other acquisitions, the condemning authority shall provide an explanation of  
29 the basis for its determination of just compensation in lieu of providing an appraisal.  
30 Should an owner elect to obtain his or her own appraisal, a copy of the same shall be  
31 provided to the condemning authority within sixty days after the notice required by  
32 subsection 1 of this section is given.

33 **3. The written notice required by this section shall be deposited in the United States**  
34 **mail, certified or registered, and with postage prepaid, addressed to the owner of record**  
35 **as listed in the office of the city or county assessor for the city or county in which the**  
36 **property is located. The receipt issued to the condemning authority by the United States**  
37 **Post Office for certified or registered mail shall constitute proof of compliance with this**  
38 **notice requirement; provided, however, that nothing in this section shall preclude a**  
39 **condemning authority from proving compliance with this notice requirement by other**  
40 **competent evidence.**

41 **4. The appraisals referred to in this section shall be made using sound, fair, and**  
42 **recognized appraisal practices which are consistent with the Uniform Standards of**  
43 **Professional Appraisal Practice in effect at the time of the appraisal, as promulgated by the**  
44 **Appraisal Foundation, and any additional applicable state or federal law or regulation**  
45 **practice governing acquisitions by the condemning authority.**

46 **5. Any condemning authority or its agent shall provide the notice provided in**  
47 **subsection 1 of this section with the initial offer. Failure to comply with this subsection**  
48 **shall prohibit the condemning authority from exercising eminent domain on that parcel**  
49 **for a period of one hundred eighty days.**

**523.253. A condemning authority shall present a written offer to all owners of**  
2 **record of the property. The offer must be made at least thirty days before filing a**  
3 **condemnation petition and shall be held open for the thirty-day period unless an**  
4 **agreement is reached sooner. The offer shall be deposited in the United States mail,**  
5 **certified or registered, and with postage prepaid, addressed to the owner of record as listed**  
6 **in the office of the city or county assessor for the city or county in which the property is**  
7 **located. The receipt issued to the condemning authority by the United States Post Office**  
8 **for certified or registered mail shall constitute proof of compliance with this notice**  
9 **requirement; provided, however, that nothing in this section shall preclude a condemning**  
10 **authority from proving compliance with this notice requirement by other competent**  
11 **evidence. Nothing in this section shall prohibit the parties from negotiating during the**  
12 **thirty-day period.**

**523.256.** Before a court may enter an order of condemnation, the court must find that the condemning authority engaged in good faith negotiations prior to filing the condemnation petition. A condemning authority shall be deemed to have engaged in good faith negotiations if:

(1) It has properly and timely given all notices to owners required by this chapter;

(2) Its offer under section 523.253 was no lower than the amount reflected in an appraisal performed by a state-licensed or state-certified appraiser, provided an appraisal is required by the terms of this chapter or, in other cases, is no lower than the amount provided in the basis for its determination of just compensation provided to the owner pursuant to subsection 2 of section 523.250;

(3) The owner has been given an opportunity to obtain his or her own appraisal from a state-licensed or state-certified appraiser of his or her choice; and

(4) Where applicable, it has considered an alternate location suggested by the owner under section 523.265.

If the court does not find that good faith negotiations have occurred, the court shall dismiss the condemnation petition, without prejudice, and shall order the condemning authority to reimburse the owner for his or her actual reasonable attorneys' fees and costs incurred with respect to the condemnation proceeding which has been dismissed.

**523.259.** If any condemning authority abandons condemnation at any point prior to the final judgment of the court, the court may order the condemning authority to pay the landowner's legal fees and expenses, and may award damages accruing as a direct and proximate result of the pendency of the condemnation if proven by the landowner. Ceasing proceedings by agreement or settlement shall not deem the condemnation abandoned.

**523.261.** Solely with regard to condemnation actions pursuant to the authority granted by section 21, article VI, Constitution of Missouri and laws enacted pursuant thereto, any legislative determination that an area is blighted, substandard, or insanitary shall not be arbitrary or capricious and shall be supported by substantial evidence; that such procedural and evidentiary standards have been met shall be reviewable by a court of competent jurisdiction. Upon the filing of an appeal of the legislative determination at the circuit court, the court shall give the case preference in the order of hearing to all other cases, except elections cases, to the extent necessary to conclude the case within thirty days of having been filed. Any subsequent or interlocutory appeal to a higher court on the appeal of the legislative determination shall be given preference and concluded in an expedited manner similar to the manner set forth herein for a hearing in circuit court. An

12 interlocutory appeal shall not stay proceedings in the court unless the court of appeals so  
13 orders.

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent  
2 domain shall only be vested in governmental bodies or agencies whose governing body is  
3 elected or whose governing body is appointed by elected officials or in an urban  
4 redevelopment corporation operating pursuant to a redevelopment agreement with the  
5 municipality for a particular redevelopment area, which agreement was executed prior to  
6 August 31, 2006.

7 2. A private utility company, public utility, rural electric cooperative, municipally  
8 owned utility, pipeline, railroad or common carrier shall have the right of eminent domain  
9 as may be granted pursuant to the provisions of other statutes. Where a condemnation by  
10 such an entity results in a "displaced person", as defined in section 523.200, the provisions  
11 of subsections 3 to 10 of section 523.205 shall apply, unless the condemning entity is subject  
12 to the relocation assistance provisions of the federal Uniform Relocation Assistance Act.

523.265. With regard to property interests acquired by condemnation or  
2 negotiations in lieu of the exercise thereof, within thirty days of receiving a written notice  
3 sent under section 523.250, the landowner may propose to the condemning authority in  
4 writing an alternative location for the property to be condemned, which alternative  
5 location shall be on the same parcel of the landowner's property as the property the  
6 condemning authority seeks to condemn. The proposal shall describe the alternative  
7 location in such detail that the alternative location is clearly defined for the condemning  
8 authority. The condemning authority shall consider all such alternative locations. This  
9 section shall not apply to total takings.

523.271. No condemning authority shall acquire a fee interest in any real property  
2 through the process of eminent domain if the sole reason for condemnation is potential or  
3 anticipated tax revenue by any political subdivision or state government.

523.274. Where eminent domain authority is based upon a determination that a  
2 particular area is being blighted, the condemning authority shall individually consider  
3 each parcel of property in the area with regard to whether the property meets the relevant  
4 statutory definition of blight. If the condemning authority finds that the area is  
5 predominantly blighted, it may proceed with condemnation of any parcels in such area.

523.277. The governor's office of the general counsel shall create an office of  
2 ombudsman by appointing a person to the position of ombudsman. The ombudsman shall  
3 assist citizens by providing free consultations to individuals seeking information regarding  
4 the condemnation process and procedures.

523.283. 1. Easements or right-of-way interests acquired by a private utility company, public utility, rural electric cooperative, or municipally owned utility, by either formal eminent domain proceedings or by negotiations in lieu of eminent domain proceedings, are fixed and determined by the particular use for which the property was acquired as described in either the instrument of conveyance or in the condemnation petition. Expanded use of the property beyond that which is described in the instrument of conveyance or the condemnation petition shall require either an additional eminent domain proceeding in order to acquire the additional rights or by new negotiations for the expanded use of the property and appropriate consideration and damages to the current owner of the property for the expanded use.

2. For purposes of this section, the term "expanded use" shall mean the exclusion of use by the owner of the burdened property from an area greater than the area of the permanent easement originally acquired or use of the easement originally acquired beyond the scope of the uses allowed as described in the instrument of conveyance or condemnation petition.

3. Commissions appointed by the court under section 523.040 and, where applicable, a jury on a trial of exceptions from the commissioners' award, shall be entitled to assume, in assessing the just compensation due for a taking, that the condemning authority shall exercise, from and after the date the property interest is acquired, each and every right acquired to the fullest extent allowed by the condemnation petition.

4. If a property owner prevails in a trespass action against a private utility company, public utility, rural electric cooperative, or municipally owned utility, such property owner may be awarded reasonable attorneys fees, costs, and expenses.

Section 1. 1. No condemning authority shall declare farmland blighted for the purposes of exercising eminent domain.

2. For the purposes of this section only, the term "farmland" shall mean all real property classified as forest cropland or all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding, and management of livestock which shall include breeding and boarding of horses; to dairy operations, or to any combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Farmland shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government.

Section 2. In addition to the modifications to a taxpayer's federal adjusted gross income in section 143.121, RSMo, to calculate Missouri adjusted gross income there shall

3 be subtracted from the taxpayer's federal adjusted gross income any gain recognized  
4 pursuant to section 1033 of the Internal Revenue Code of 1986, as amended, arising from  
5 compulsory or involuntary conversion of property as a result of condemnation or the  
6 imminence thereof.

Section 3. Any easements that are acquired on or after August 28, 2006, through  
2 the power of eminent domain or pursuant to negotiations in lieu of the exercise thereof,  
3 which, for a period of fifteen consecutive years, are not used in whole or in part for the  
4 purpose for which they were acquired as provided for in the instrument of conveyance or  
5 order of condemnation, shall be vacated of record by the holder of the easement upon  
6 written request from the then-owner of record of the burdened property. The owner of  
7 record may make such a written request after the fifteen-year period has expired;  
8 provided, that if the holder of the easement does not vacate the easement within ninety  
9 days after receipt of the request, the landowner shall have the right to petition the circuit  
10 court of the county in which the burdened property is located to obtain vacation of the  
11 easement and the holder shall have the opportunity to ask the circuit court to grant an  
12 extension of the fifteen-year period to the extent reasonably necessary in order to address  
13 delays to the use of the easement caused by construction delays, environmental impact  
14 assessments, or other circumstances that have not been caused by the easement holder and  
15 that have prevented the easement holder from using the easement in whole or in part for  
16 the purposes provided for in the instrument of conveyance or condemnation order within  
17 the fifteen-year period. The holder of the easement shall be a party to any such action and,  
18 if the court agrees that an extension is warranted, the costs of such action shall be paid by  
19 the landowner; otherwise, if the court orders the easement to be vacated, the costs of the  
20 action shall be borne by the easement holder. The right to request that an easement be  
21 vacated may be waived by the owner of record from whom the easement was originally  
22 acquired or by such owner's successor in title to the burdened property either in the  
23 original instrument of conveyance or in a subsequent signed writing.

Section B. Pursuant to section 1.140, RSMo, the provisions of this act are severable. If  
2 any provision of this act is declared invalid or unconstitutional, it is the intent of the legislature  
3 that the remaining portions of this act shall remain and be in full force and effect.