

HOUSE BILL NO. HB0211

Eminent domain-amendments.

Sponsored by: Representative(s) Barlow, Brown, Hunt,
Kroeker, Semlek and Wallis and Senator(s)
Burns and Hines

A BILL

for

1 AN ACT relating to eminent domain; amending consideration
2 to be given findings of agencies regarding requirements for
3 public necessity; providing for payment of litigation
4 expenses; providing factors to be considered in
5 determination of fair market value; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 1-26-504(a)(ii), (iii), by creating a
11 new paragraph (iv) and (b), 1-26-702 by creating a new
12 subsection (c) and 1-26-704(a)(iii) by creating a new
13 subparagraph (D) and (c)(intro) are amended to read:

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15 **1-26-504. Requirements to exercise eminent domain.**

16

1 (a) Except as otherwise provided by law, the power of
2 eminent domain may be exercised to acquire property for a
3 proposed use only if all of the following are established:

4
5 (ii) The project is planned or located in the
6 manner that will be most compatible with the greatest
7 public good and the least private injury;~~and~~

8
9 (iii) The property sought to be acquired is
10 necessary for the project;~~and~~ and

11
12 (iv) The project is not planned or located to
13 avoid locating the project on or across federal lands.

14
15 (b) Findings of the public service commission,~~the~~
16 ~~interstate commerce commission and other federal~~ and state
17 agencies with appropriate jurisdiction ~~are prima facie~~
18 ~~valid~~ may be considered relative to determinations under
19 subsection (a) of this section if the findings were made in
20 accordance with law with notice to condemnees who are
21 parties to the condemnation action.~~and are final with no~~
22 ~~appeals from the determinations pending.~~

1 **1-26-702. Compensation for taking; litigation**
2 **expenses.**

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4 (c) In addition to the compensation paid for the
5 property pursuant to this act, the condemnor shall pay to
6 the condemnee fifty percent (50%) of the condemnee's
7 litigation expenses. Provided, however, the condemnor
8 shall pay one hundred percent (100%) of the condemnee's
9 litigation expenses if immediate possession is requested,
10 the action is discontinued or the condemnor has failed to
11 substantially comply with W.S. 1-26-504.

12
13 **1-26-704. Fair market value defined.**

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15 (a) Except as provided in subsection (b) of this
16 section:

17
18 (iii) The determination of fair market value
19 shall use generally accepted appraisal techniques and may
20 include:

21
22 (D) The reasonable cost of functional
23 replacement.

1 (c) The cost of functional replacement under
2 subparagraph (a)(iii)(D) and subsection (b) of this section
3 includes:

4

5 **Section 2.** This act is effective July 1, 2013.

6

7 (END)