

FIRST REGULAR SESSION

SENATE BILL NO. 389

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Read 1st time January 30, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1318S.021

AN ACT

To repeal section 523.040, RSMo, and to enact in lieu thereof one new section relating to eminent domain.

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

Section A. Section 523.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 523.040, to read as follows:

523.040. 1. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be residents of the county in which the real estate or a part thereof is situated, to assess the damages which the owners may severally sustain by reason of such appropriation, who, after having viewed the property, shall return to the clerk of such court, under oath, their report in duplicate, of such assessment of damages, setting forth the amount of damages allowed to the person or persons named as owning or claiming the tract of land condemned, and should more than one tract be condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated separately, together with a specific description of the tracts for which such damages are assessed; and the clerk shall file one copy of said report in his office and record the same in the order book of the court, and he shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who shall record the same in his office, and index each tract separately as provided in section 59.440, RSMo, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and thereupon such company shall pay to the clerk the amount thus assessed for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such

company to hold the interest in the property so appropriated for the uses prescribed in this section; and upon failure to pay the assessment, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of the court, and entered on the minutes of the court, and as to so much as is thus abandoned, the assessment of damages shall be void.

2. In setting the amount of damages pursuant to subsection 1 of this section the commissioners shall consider the present or currently anticipated use of the property and the present or currently anticipated use of surrounding properties. The commissioners shall also consider the income value derived from the use of the property.

T

Unofficial

Bill

Copy