

House Amendment 8067

PAG LIN

1 1 Amend House File 2400 as follows:
1 2 #1. Page 1, by inserting before line 1 the
1 3 following:
1 4 <DIVISION I
1 5 SURFACE WATER PROTECTION>.
1 6 #2. Page 8, by inserting before line 22 the
1 7 following:
1 8 <DIVISION II
1 9 EMINENT DOMAIN AND CONDEMNATION
1 10 Sec. _____. Section 6A.22, subsection 2, paragraph
1 11 c, subparagraph (1), Code 2007, is amended to read as
1 12 follows:
1 13 (1) If private property is to be condemned for
1 14 development or creation of a lake, only that number of
1 15 acres justified as reasonable and necessary for a
1 16 surface drinking water source, and not otherwise
1 17 acquired, may be condemned. ~~In addition prior to~~
1 18 ~~making a determination that such lake development or~~
1 19 ~~creation is reasonable and necessary, the acquiring~~
1 20 ~~agency shall conduct a review of demonstrate by clear~~
1 21 ~~and convincing evidence that no other prudent and~~
1 22 ~~feasible alternatives to alternative for~~ provision of
1 23 a drinking water source ~~prior to making a~~
1 24 ~~determination that such lake development or creation~~
1 25 ~~is reasonable and necessary exists.~~ Development or
1 26 creation of a lake as a surface drinking water source
1 27 includes all of the following:
1 28 (a) Construction of the dam, including sites for
1 29 suitable borrow material and the auxiliary spillway.
1 30 (b) The water supply pool.
1 31 (c) The sediment pool.
1 32 (d) The flood control pool.
1 33 (e) The floodwater retarding pool.
1 34 (f) The surrounding area upstream of the dam no
1 35 higher in elevation than the top of the dam's
1 36 elevation.
1 37 (g) The appropriate setback distance required by
1 38 state or federal laws and regulations to protect
1 39 drinking water supply.
1 40 For purposes of this subparagraph (1), "number of
1 41 acres justified as reasonable and necessary for a
1 42 surface drinking water source" means according to
1 43 guidelines of the United States natural resource
1 44 conservation service and according to analyses of
1 45 surface drinking water capacity needs conducted by one
1 46 or more registered professional engineers. ~~However,~~
1 47 ~~any guidelines or analyses related to future water~~
1 48 ~~capacity needs or water capacity needs in time of~~
1 49 ~~drought shall be based on the current rate of drinking~~
1 50 ~~water usage in the area to be served by the surface~~
2 1 ~~drinking water source.~~
2 2 ~~In making determinations required under this~~
2 3 ~~subparagraph (1), any reviews or analyses conducted by~~
2 4 ~~an engineer shall be conducted by a registered~~
2 5 ~~professional engineer selected by a committee of~~
2 6 ~~private landowners affected by the proposed~~
2 7 ~~condemnation action. The acquiring agency shall be~~
2 8 ~~responsible for paying the fees and expenses of an~~
2 9 ~~engineer whose services are retained pursuant to this~~
2 10 ~~subparagraph (1).~~
2 11 Sec. _____. Section 6A.24, subsection 3, Code 2007,
2 12 is amended to read as follows:
2 13 3. For any action brought under this section, the
2 14 burden of proof shall be on the acquiring agency to
2 15 prove by ~~a preponderance of the clear and convincing~~
2 16 ~~evidence that the finding of public use, public~~
2 17 ~~purpose, or public improvement meets the definition of~~
2 18 ~~those terms. If a property owner or a contract~~
2 19 ~~purchaser of record or a tenant occupying the property~~
2 20 ~~under a recorded lease prevails in an action brought~~
2 21 ~~under this section, the acquiring agency shall be~~
2 22 ~~required to pay the costs, including reasonable~~
2 23 ~~attorney fees, of the adverse party.~~
2 24 Sec. _____. Section 6B.54, subsection 10, Code 2007,

2 25 is amended by adding the following new paragraph:
2 26 NEW PARAGRAPH. c. Reasonable attorney fees and
2 27 reasonable costs, including expert witness fees and
2 28 fees relating to appraisal of the property, not to
2 29 exceed one hundred thousand dollars.
2 30 Sec. _____. Section 316.4, subsection 1, Code 2007,
2 31 is amended to read as follows:
2 32 1. If a program or project undertaken by a
2 33 displacing agency will result in the displacement of a
2 34 person, the displacing agency shall make a payment to
2 35 the displaced person, upon proper application as
2 36 approved by the displacing agency, for actual
2 37 reasonable and necessary expenses incurred in moving
2 38 the person, the person's family, business, farm
2 39 operation, or other personal property subject to rules
2 40 and limits established by the department. The payment
2 41 may also provide for actual direct losses of tangible
2 42 personal property, purchase of substitute personal
2 43 property, business reestablishment expenses, storage
2 44 expenses, and expenses incurred in searching for a
2 45 replacement business or farm. If relocation of a
2 46 business or farm operation is not economically
2 47 feasible, the displaced person may also apply for
2 48 payment of the loss of existing business relationships
2 49 because of the inability to relocate the business or
2 50 farm operation to a location similar in economic
3 1 advantage to the location from which the business or
3 2 farm operation was moved.
3 3 Sec. _____. Section 364.4, subsection 1, paragraph
3 4 a, unnumbered paragraph 1, Code 2007, is amended to
3 5 read as follows:
3 6 Acquire, hold, and dispose of property outside the
3 7 city in the same manner as within. However, the power
3 8 of a city to acquire property outside the city does
3 9 not include the power to acquire property outside the
3 10 city by eminent domain, except if viable alternatives
3 11 do not exist within the city and the acquisition of
3 12 the property is necessary for the following, subject
3 13 to the provisions of chapters 6A and 6B:
3 14 Sec. _____. Section 403.7, subsection 1, unnumbered
3 15 paragraph 1, Code 2007, is amended to read as follows:
3 16 A municipality shall have the right to acquire by
3 17 condemnation any interest in real property, including
3 18 a fee simple title thereto, which it may deem
3 19 necessary for or in connection with an urban renewal
3 20 project under this chapter, subject to the limitations
3 21 on eminent domain authority in ~~chapter~~ chapters 6A and
3 22 6B. However, a municipality shall not condemn
3 23 agricultural land included within an economic
3 24 development area for any use unless the owner of the
3 25 agricultural land consents to condemnation or unless
3 26 ~~the municipality determines that the land is necessary~~
3 27 ~~or useful viable alternatives to the condemnation of~~
3 28 ~~agricultural land do not exist and the acquisition of~~
3 29 ~~the property is necessary~~ for any of the following:
3 30 Sec. _____. EFFECTIVE DATE. This division of this
3 31 Act, being deemed of immediate importance, takes
3 32 effect upon enactment and applies to projects or
3 33 condemnation proceedings pending or commenced on or
3 34 after that date.>
3 35 #3. Title page, line 1, by inserting after the
3 36 word <quality> the following: <and lake development>.
3 37 #4. Title page, line 6, by inserting after the
3 38 word <program> the following: <and making changes
3 39 related to eminent domain authority and condemnation
3 40 procedures and providing an effective date>.
3 41 #5. By renumbering as necessary.
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3 43
3 44
3 45 KAUFMANN of Cedar
3 46 HF 2400.701 82
3 47 sc/nh/11043