

SB 229-FN-LOCAL - AS AMENDED BY THE SENATE

02/16/2017 0389s

2017 SESSION

17-0170

06/10

SENATE BILL

***229-FN-LOCAL***

AN ACT relative to appraisals of residential property, procedures in eminent domain proceedings, and expenditures from the energy efficiency fund.

SPONSORS: Sen. Avar, Dist 12; Sen. Bradley, Dist 3; Sen. Feltes, Dist 15; Sen. Birdsell, Dist 19; Sen. Sanborn, Dist 9; Sen. Ward, Dist 8; Sen. French, Dist 7; Sen. Giuda, Dist 2; Rep. O'Day, Ches. 11; Rep. Lewicke, Hills. 26; Rep. Seidel, Hills. 28; Rep. Carr, Hills. 26

COMMITTEE: Energy and Natural Resources

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AMENDED ANALYSIS

This bill:

I. Allows an owner of residential property to have an updated appraisal completed at the expense of a pipeline company seeking to acquire the property by eminent domain.

II. Allows certain owners of property subject to a permanent partial taking under eminent domain to require a pipeline company to take the entire tract of land.

III. Provides for the awarding of relocation, temporary housing, and legal expenses in gas pipeline eminent domain proceedings.

IV. Permits the site evaluation committee to file as an intervenor in Federal Energy Regulatory Commission proceedings involving siting of high pressure gas pipelines.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                    relative to appraisals of residential property, procedures in eminent domain proceedings, and expenditures from the energy efficiency fund.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Eminent Domain by Pipeline Companies; Updated Appraisals. Amend RSA 371:15, IV to read  
2 as follows:

3            IV. In trying any question of damages before said commissioners or by jury, the appraisal  
4 for taxation of such real estate, and, in cases where less than the whole interest in real estate is  
5 sought to be acquired, the appraisal for taxation of such whole interest, by the selectmen or tax  
6 assessors for the tax year in which such application shall have been filed, and for as many  
7 preceding years as the commissioners or the court may consider relevant, shall be competent as  
8 evidence of value. ***The owner of private real property used for residential purposes may***  
9 ***select a licensed appraiser to expeditiously conduct an updated appraisal of the private***  
10 ***real estate sought to be acquired, with the reasonable costs of such appraisal, as***  
11 ***determined by the agreement of the parties, or by the commissioners or the court, to be***  
12 ***borne by or reimbursed by the pipeline company. The pipeline company shall provide the***  
13 ***owner or owners notice of this right to an appraisal with costs borne by the pipeline***  
14 ***company. Any such appraisal submitted to the commissioners or the court shall be***  
15 ***considered by the commissioners or the court.*** The damages as determined shall be awarded to  
16 the owner or apportioned among the several owners in accordance with their several interests as  
17 determined and judgment shall be entered accordingly.

18            2 New Paragraphs; Eminent Domain; Residential Owner Option; Relocation and Expenses.  
19 Amend RSA 371:15 by inserting after paragraph VI the following new paragraphs:

20            VII. When private real property which is used for residential purposes is proposed to be  
21 permanently acquired in part, for the construction of a high pressure gas pipeline or appurtenance  
22 thereto, the owners of the residential property shall have the option to require the pipeline company  
23 to condemn and take in fee the entire tract of land impacted by the proposed partial taking  
24 including all buildings and improvements thereon if all owners, excluding lienholders and  
25 mortgagees, of the private real property make such an election and provide the commission and the  
26 pipeline company with written notice of their election within 30 days after receipt of the notice  
27 under paragraph II. The option under this paragraph shall only apply if the residence is within 250  
28 feet of the boundary of the proposed permanent partial taking. The owner or owners may seek a  
29 declaratory ruling concerning the applicability of this paragraph at any time prior to a fact finding  
30 hearing on damages.

1           VIII. In all cases where residential property is taken pursuant to the provisions of this  
2 section, a resident owner may also be awarded reasonable relocation, temporary housing, and legal  
3 expenses not to exceed 10 percent of the compensation ordered for the taking.

4           3 Site Evaluation Committee; High Pressure Gas Pipelines. Amend RSA 162-H:10-b, IV to read  
5 as follows:

6           IV. The committee shall consider [~~intervention~~] ***filing as an intervenor*** in Federal Energy  
7 Regulatory Commission proceedings involving the siting of high pressure gas pipelines in order to  
8 protect the interest of the state of New Hampshire.

9           4 Effective Date. This act shall take effect January 1, 2018.

**SB 229-FN-LOCAL- FISCAL NOTE**  
**AS INTRODUCED**

AN ACT relative to appraisals of residential property, procedures in eminent domain proceedings, and expenditures from the energy efficiency fund.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2018	FY 2019	FY 2020	FY 2021
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Site Evaluation Committee Fund and Renewable Energy Fund			

**METHODOLOGY:**

This bill requires pipeline developers to pay for an appraisal by a licensed appraiser selected by the residential property owner, before taking residential property. This bill also requires the pipeline developer to take the whole residential property if the residence is within 250 feet of the area to be taken. Further, this bill allows for the recovery by residential property owners of legal and relocation expenses in connection with a taking for a high pressure gas pipeline, up to the amount of 10 percent of the compensation for the taking. Finally, this bill requires the Site Evaluation Committee to intervene in any federal energy regulatory commission proceedings involving the siting of high pressure gas pipelines.

The Public Utilities Commission states this bill may increase state expenditures, made by the Site Evaluation Committee, by an indeterminable amount. Pursuant to RSA 162-H:21, the Site Evaluation Committee Fund is funded through application fees and other filing fees under RSA 162-H:8-a and pays only for compensation and reimbursements made under RSA 162-H:22. All other operating costs are general fund appropriations. However, during the fiscal biennium ending June 30, 2019, if the appropriated amount of general funds is inadequate to pay for operating costs, then funds from the Renewable Energy Fund shall be used. The amount transferred from the Renewable Energy Fund shall not exceed \$480,000 and unexpended funds shall lapse back to the Renewable Energy Fund at the end of the biennium.

The Department of Revenue Administration and Board of Tax and Land Appeals state this bill will have no impact on state revenue or expenditures.

The New Hampshire Municipal Association states this bill will have no impact on local revenue or expenditures.

**AGENCIES CONTACTED:**

Public Utilities Commission, New Hampshire Municipal Association, Department of Revenue Administration, and Board of Tax and Land Appeals