



Reprinted
January 26, 2010

SENATE BILL No. 115

DIGEST OF SB 115 (Updated January 25, 2010 4:25 pm - DI 106)

Citations Affected: IC 32-24.

Synopsis: Eminent domain for carbon dioxide pipeline. Permits an entity authorized to transport carbon dioxide by pipeline to acquire real property by eminent domain.

Effective: July 1, 2010.

Gard, Bray, Waterman, Hume

January 5, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 21, 2010, amended, reported favorably — Do Pass.
January 25, 2010, read second time, amended, ordered engrossed.

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SB 115—LS 6352/DI 52+



Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 115

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-24-4.5-8, AS ADDED BY P.L.163-2006,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 8. Notwithstanding IC 32-24-1, a condemnor that
4 acquires a **permanent or temporary interest in a** parcel of real
5 property through the exercise of eminent domain under this chapter
6 shall compensate the owner of the parcel as follows:
7 (1) For agricultural land:
8 (A) either:
9 (i) payment to the owner equal to one hundred twenty-five
10 percent (125%) of the fair market value of the parcel as
11 determined under IC 32-24-1; or
12 (ii) upon the request of the owner and if the owner and
13 condemnor both agree, transfer to the owner of an ownership
14 interest in agricultural land that is equal in acreage to the
15 parcel acquired through the exercise of eminent domain;
16 (B) payment of any other damages determined under
17 IC 32-24-1 and any loss incurred in a trade or business that is



- 1 attributable to the exercise of eminent domain; and
- 2 (C) payment of the owner's relocation costs, if any.
- 3 (2) For a parcel of real property occupied by the owner as a
- 4 residence:
- 5 (A) payment to the owner equal to one hundred fifty percent
- 6 (150%) of the fair market value of the parcel as determined
- 7 under IC 32-24-1;
- 8 (B) payment of any other damages determined under
- 9 IC 32-24-1 and any loss incurred in a trade or business that is
- 10 attributable to the exercise of eminent domain; and
- 11 (C) payment of the owner's relocation costs, if any.
- 12 (3) For a parcel of real property not described in subdivision (1)
- 13 or (2):
- 14 (A) payment to the owner equal to one hundred percent
- 15 (100%) of the fair market value of the parcel as determined
- 16 under IC 32-24-1;
- 17 (B) payment of any other damages determined under
- 18 IC 32-24-1 and any loss incurred in a trade or business that is
- 19 attributable to the exercise of eminent domain; and
- 20 (C) payment of the owner's relocation costs, if any.

21 SECTION 2. IC 32-24-8 IS ADDED TO THE INDIANA CODE AS
 22 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2010]:

24 **Chapter 8. Eminent Domain for Transportation of Carbon**
 25 **Dioxide by Pipeline**

26 **Sec. 1. Because the transportation of carbon dioxide by pipeline**
 27 **in Indiana for sequestration, enhanced oil recovery, and other**
 28 **purposes can:**

- 29 (1) assist efforts to reduce carbon dioxide emissions from:
- 30 (A) the generation of electricity; and
- 31 (B) the manufacture of gas using coal; and
- 32 (2) promote economic development in Indiana;

33 the transportation of carbon dioxide by pipeline in Indiana is
 34 declared to be a public use and service, in the public interest, and
 35 a benefit to the welfare of Indiana and the people of Indiana.

36 **Sec. 2. As used in this chapter, "carbon dioxide" means a fluid**
 37 **consisting of more than ninety percent (90%) carbon dioxide**
 38 **molecules compressed to a supercritical state.**

39 **Sec. 3. As used in this chapter, "pipeline" means all parts of**
 40 **physical facilities through which carbon dioxide can move in**
 41 **transportation, including the following:**

- 42 (1) Pipe.

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- 1 (2) Valves and other appurtenances attached to pipe.
- 2 (3) Compressor units.
- 3 (4) Metering stations.
- 4 (5) Regulator stations.
- 5 (6) Delivery stations.
- 6 (7) Holders.
- 7 (8) Fabricated assemblies.

8 The term excludes motor vehicles of all kinds.

9 Sec. 4. As used in this chapter, "transportation" means the
10 physical movement of carbon dioxide by pipeline conducted for:

- 11 (1) a person's own use or account; or
- 12 (2) the use or account of another person or persons.

13 Sec. 5. (a) This section applies to any of the following that is
14 authorized to do business in Indiana and is authorized to transport
15 carbon dioxide by pipeline:

- 16 (1) A person.
- 17 (2) A firm.
- 18 (3) A partnership.
- 19 (4) A limited liability company.
- 20 (5) A corporation.

21 (b) An entity described in subsection (a) may take, acquire,
22 condemn, and appropriate any of the following to accomplish the
23 transportation of carbon dioxide by pipeline:

- 24 (1) Land.
- 25 (2) Real estate.
- 26 (3) Any permanent or temporary interest in land or real
27 estate.

28 (c) An entity to which subsection (b) applies has all
29 accommodations, rights, and privileges necessary to accomplish the
30 use for which the property is taken.

31 Sec. 6. (a) Except as provided in subsection (b), the taking,
32 acquisition, condemnation, and appropriation authorized by this
33 chapter must be made under IC 32-24-1.

34 (b) An entity that exercises its right under section 5(b) of this
35 chapter shall:

- 36 (1) compensate the owner of the land, real estate, or interest
37 (including an interest in retrievable mineral rights) in the
38 manner that a condemnor is required to compensate the
39 owner of a parcel of real property under IC 32-24-4.5-8(1)(A),
40 IC 32-24-4.5-8(2)(A), or IC 32-24-4.5-8(3)(A); and
- 41 (2) pay the owner's relocation costs (as defined in
42 IC 32-24-4.5-6), if any.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 115, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 19, delete "engaged in the".

Page 2, line 20, delete "transportation of" and insert "**authorized to transport**".

Page 2, line 36, delete "The" and insert "**(a) Except as provided in subsection (b), the**".

Page 2, after line 38, begin a new paragraph and insert:

"(b) An entity that exercises its right under section 5(b) of this chapter shall:

(1) compensate the owner of the land, real estate, or interest in the manner that a condemnor is required to compensate the owner of a parcel of real property under IC 32-24-4.5-8(1)(A), IC 32-24-4.5-8(2)(A), or IC 32-24-4.5-8(3)(A); and

(2) pay the owner's relocation costs (as defined in IC 32-24-4.5-6), if any."

and when so amended that said bill do pass.

(Reference is to SB 115 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 115 be amended to read as follows:

Page 2, line 41, after "interest" insert "**(including an interest in retrievable mineral rights)**".

(Reference is to SB 115 as printed January 22, 2010.)

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SENATE MOTION

Madam President: I move that Senate Bill 115 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-24-4.5-8, AS ADDED BY P.L.163-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. Notwithstanding IC 32-24-1, a condemnor that acquires a **permanent or temporary interest in a** parcel of real property through the exercise of eminent domain under this chapter shall compensate the owner of the parcel as follows:

- (1) For agricultural land:
 - (A) either:
 - (i) payment to the owner equal to one hundred twenty-five percent (125%) of the fair market value of the parcel as determined under IC 32-24-1; or
 - (ii) upon the request of the owner and if the owner and condemnor both agree, transfer to the owner of an ownership interest in agricultural land that is equal in acreage to the parcel acquired through the exercise of eminent domain;
 - (B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
 - (C) payment of the owner's relocation costs, if any.
- (2) For a parcel of real property occupied by the owner as a residence:
 - (A) payment to the owner equal to one hundred fifty percent (150%) of the fair market value of the parcel as determined under IC 32-24-1;
 - (B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
 - (C) payment of the owner's relocation costs, if any.
- (3) For a parcel of real property not described in subdivision (1) or (2):
 - (A) payment to the owner equal to one hundred percent (100%) of the fair market value of the parcel as determined under IC 32-24-1;
 - (B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and

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(C) payment of the owner's relocation costs, if any.".
Renummer all SECTIONS consecutively.

(Reference is to SB 115 as printed January 22, 2010.)

YOUNG R MICHAEL

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