

House Bill 373 (AS PASSED HOUSE AND SENATE)

By: Representative Twiggs of the 8<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 22 of the Official Code of Georgia Annotated, relating to  
2 condemnation procedures, so as to change the time for hearing before a special master and  
3 to require notice by certified mail in condemnations for certain purposes; to amend Chapter  
4 3 of Title 22 of the Official Code of Georgia Annotated, relating to exercise of the power of  
5 eminent domain for special purposes, so as to prohibit the use of the power of eminent  
6 domain to acquire any property for the construction of certain electric transmission lines  
7 without prior public notice and one or more public meetings with an opportunity for  
8 comment and questions; to provide for exceptions; to provide for factors to be considered in  
9 selecting a route for certain electric transmission lines; to provide procedures for good faith  
10 negotiations; to provide for additional compensation for or reconveyance or quitclaim of an  
11 easement or other property interest acquired through the exercise of eminent domain in  
12 certain circumstances; to provide for related matters; to provide for an effective date and  
13 applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 2 of Title 22 of the Official Code of Georgia Annotated, relating to condemnation  
17 procedures, is amended by striking Code Section 22-2-102, relating to petitions of  
18 condemnation, judicial orders for hearing before a special master, and proceedings in rem,  
19 and inserting in lieu thereof the following:

20 "22-2-102.

21 Whenever it is desirable, for any reason, to arrive at a quick and certain determination of  
22 the compensation to be paid first to the condemnee for the taking or damaging of private  
23 property, the condemnor shall file a petition in a superior court having jurisdiction for a  
24 judgment in rem against the property or interest therein, as provided in Code Section  
25 22-2-130. At or before the filing of the petition, the condemnor shall present a copy of the  
26 petition to a judge of the superior court of the county wherein the property or interest

1 sought to be condemned is located. Thereupon, the judge shall make an order requiring the  
 2 condemnor, the person in possession of the property or interest, and any other person  
 3 known to have any rights in the property or interest to appear at a hearing before a special  
 4 master at a time and place specified in the order and to make known their rights, if any, in  
 5 and to the property or interest sought to be condemned, their claims as to the value of the  
 6 property or interest, and any other matters material to their respective rights. The Except  
 7 in condemnations for purposes of constructing or expanding one or more electric  
 8 transmission lines, the hearing before the special master shall take place not less than ten  
 9 days nor more than 15 days after the date of service of the order. In condemnations for  
 10 purposes of constructing or expanding one or more electric transmission lines, the hearing  
 11 before the special master shall take place not less than 30 days and not more than 40 days  
 12 after the date of service of the order. The order shall give such directions for notice and the  
 13 service thereof as are appropriate and as are consistent with this article, in such manner as  
 14 to provide most effectively an opportunity to all parties at interest to be heard. In  
 15 condemnations for purposes of constructing or expanding one or more electric transmission  
 16 lines, in addition to service of the order, a copy of the order shall be mailed by certified  
 17 mail to any person shown by the public ad valorem tax records of the county in which the  
 18 property is located to have an interest in the property and to any other person having open  
 19 and obvious possession of the property. It shall not be necessary to attach any other process  
 20 to the petition except the order so made, and the cause shall proceed as in rem."

21 **SECTION 2.**

22 Chapter 3 of Title 22 of the Official Code of Georgia Annotated, relating to exercise of the  
 23 power of eminent domain for special purposes, is amended by adding at the end of said  
 24 chapter a new Article 8 to read as follows:

25 "ARTICLE 8

26 22-3-160.

27 (a) Before exercising the right of eminent domain for purposes of constructing or  
 28 expanding an electric transmission line with a design operating voltage of 115 kilovolts or  
 29 greater and a length of one mile or more, any person, corporation, or other entity that  
 30 generates, transmits, distributes, supplies, or sells electricity for public or private use in this  
 31 state or generates electricity in this state for transmission or distribution outside this state  
 32 (hereinafter in this article referred to as 'utility') shall schedule and hold one or more public  
 33 meetings with an opportunity for comment by members of the public. In any proceeding  
 34 to exercise the right of eminent domain for purposes of an electric transmission line for

1 which the utility began land acquisition negotiations on or after July 1, 2004, the utility  
2 shall be required to demonstrate substantial compliance with this Code section as a  
3 condition for exercising the right of eminent domain.

4 (b) Prior to the public meeting or meetings required by this Code section, the utility shall  
5 provide adequate public notice of the utility's intent to construct or expand an electric  
6 transmission line and adequate public notice of the public meeting or meetings related to  
7 the electric transmission line as follows:

8 (1) By publishing adequate public notice of said public meeting or meetings in a  
9 newspaper of general circulation in each county in which any portion of the electric  
10 transmission line is to be constructed or expanded. Said notice shall be published at least  
11 30 days prior to the date of the first public meeting related to the electric transmission line  
12 and shall include the following: the date, time, and location of each meeting; a statement  
13 that the purpose of the meeting or meetings is to provide public notice of the utility's  
14 intent to construct or expand an electric transmission line for which the right of eminent  
15 domain may be exercised; a description of the proposed project including the general  
16 route of the electric transmission line and the general property area within which the  
17 utility intends to construct or expand the electric transmission line; the width of the  
18 proposed transmission line route; and a description of the alternative construction  
19 approaches considered by the utility and a statement of why such alternatives were  
20 rejected by the utility; and

21 (2) By providing written notice of the public meeting or meetings, by means of certified  
22 mail, to each owner of property, as indicated in the tax records of the county in which  
23 such property is located, over which the utility intends to construct or expand the electric  
24 transmission line and to the chairpersons or chief executives of the counties and the  
25 mayors of any municipalities in which such property is located. Such notice shall be  
26 mailed at least 30 days prior to the date of the first public meeting related to the electric  
27 transmission line and shall include all of the information required by paragraph (1) of this  
28 subsection.

29 (c) At least one public meeting shall be held in each county in which the electric  
30 transmission line would be located. In any county in which the electric transmission line  
31 would require acquisition of property rights from more than 50 property owners, two or  
32 more public meetings shall be held. The public meetings shall be held in an accessible  
33 location and shall be open to members of the public. At least one of the public meetings  
34 shall commence between 6:00 P.M. and 7:00 P.M., inclusive, on a business weekday. At  
35 the public meetings, the utility shall provide a description of the proposed project including  
36 the general route of the electric transmission line and the general property area within  
37 which the utility intends to construct or expand the electric transmission line, the width of

1 the proposed transmission line route, and a description of the alternative construction  
2 approaches considered by the utility and a statement of why such alternatives were rejected  
3 by the utility. At the public meetings, the utility shall allow a reasonable opportunity for  
4 members of the public to express their views on the proposed project and to ask questions.

5 (d) A utility shall not be required to give notice of or hold public meetings with respect to  
6 any of the following:

7 (1) An electric transmission line to be constructed or expanded by a utility on an  
8 established right of way or land that was acquired by the utility or any other utility prior  
9 to July 1, 2004;

10 (2) An electric transmission line for which the utility began land acquisition negotiations  
11 prior to July 1, 2004;

12 (3) An electric transmission line to be constructed or expanded by a utility on an  
13 established right of way or land that is owned or controlled by a state agency, a county,  
14 a municipality, or an agency, bureau, or department of the United States;

15 (4) An electric transmission line to be constructed or expanded by a utility for the  
16 purpose of relocating an existing electric transmission line at the direction, order, or  
17 request of a state agency, a county, a municipality, or an agency, bureau, or department  
18 of the United States;

19 (5) An electric transmission line to be constructed or expanded by a utility without  
20 exercising the power of eminent domain to acquire the right of way or easement area for  
21 such line; or

22 (6) An electric transmission line to be constructed by a utility for the purpose of serving  
23 an electric substation or switching station to be constructed on a site that is owned or  
24 controlled by a utility customer to be served by such substation or switching station.

25 22-3-161.

26 (a) On and after July 1, 2004, before exercising the right of eminent domain for purposes  
27 of constructing or expanding an electric transmission line described in subsection (a) of  
28 Code Section 22-3-160, the utility shall select a practical and feasible route for the location  
29 of the electric transmission line. In selecting the route for the location of the electric  
30 transmission line, the utility shall consider existing land uses in the geographic area where  
31 the line is to be located, existing corridors, existing environmental conditions in the area,  
32 engineering practices related to the construction and operation of the line, and costs related  
33 to the construction, operation, and maintenance of the line.

34 (b) After the utility has selected the preferred route for the location of an electric  
35 transmission line, the utility shall attempt in good faith to negotiate a settlement with each  
36 property owner from whom the utility needs to acquire property rights for the line. In

1 connection with the negotiations, the utility shall provide the property owner with a written  
2 offer to purchase the property rights, a document that describes the property rights, and a  
3 drawing that shows the location of the line on the owner's property.

4 (c) The requirements of subsections (a) and (b) of this Code section shall not apply to an  
5 electric transmission line described in subsection (d) of Code Section 22-3-160.

6 22-3-162.

7 (a) This Code section shall apply to any easement or other property interest acquired on  
8 or after July 1, 2004, through exercise of the right of eminent domain for purposes of  
9 constructing or expanding an electric transmission line:

10 (1) With a capacity of 230 kilovolts or less if the utility has not begun such construction  
11 or expansion within 12 years from the date of acquisition and the land burdened by the  
12 easement or other property interest is not adjacent to an electric transmission line corridor  
13 in existence 12 years from the date of acquisition;

14 (2) With a capacity of more than 230 kilovolts if the utility has not begun such  
15 construction or expansion within 15 years from the date of acquisition and the land  
16 burdened by the easement or other property interest is not adjacent to an electric  
17 transmission line corridor in existence 15 years from the date of acquisition; and

18 (3) Of any capacity if the land burdened by the easement or other property interest is  
19 adjacent to an electric transmission line corridor in existence 15 years after the date of  
20 acquisition and the utility has not begun the construction or expansion for which the  
21 easement or other property right was acquired within 15 years from the date of  
22 acquisition.

23 (b) When this Code section becomes applicable to an easement or other property interest,  
24 the owner of the land burdened by such easement or property interest may apply to the  
25 utility that acquired the easement or other property interest or such utility's successor or  
26 assign for reconveyance or quitclaim of the easement or other property interest or for  
27 additional compensation for such easement or other property interest. The application shall  
28 be in writing, and the utility or its successor or assign shall act on the application within 60  
29 days by:

30 (1) Executing a reconveyance or quitclaim of the easement or property interest upon  
31 receipt of compensation not to exceed the amount of the compensation paid by the utility  
32 for the easement or property interest at the time of acquisition; or

33 (2) Paying additional compensation to the owner of the land burdened by the easement  
34 or other property interest, such compensation to be calculated by subtracting the price  
35 paid by the utility for the easement or other property interest at the time of acquisition

1 from the fair market value of the easement or other property interest at the time this Code  
2 section becomes applicable to such easement or other property interest.

3 (c) The choice between additional compensation or reconveyance or quitclaim shall be at  
4 the discretion of the utility or its successor or assign."

5 **SECTION 3.**

6 This Act shall become effective July 1, 2004, and shall apply to the exercise of eminent  
7 domain to acquire easements or other property interests for which land acquisition  
8 negotiations for purposes of constructing or expanding one or more electric transmission  
9 lines begin on or after such date. The provisions of this Act relating to additional  
10 compensation, reconveyance, and quitclaim shall apply to easements and other property  
11 interests acquired on or after July 1, 2004, through the exercise of eminent domain.

12 **SECTION 4.**

13 All laws and parts of laws in conflict with this Act are repealed.