

By Senator Evers

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1                   A bill to be entitled  
2           An act relating to the right of eminent domain for  
3           natural gas companies; providing a short title;  
4           amending s. 361.05, F.S.; providing legislative intent  
5           that if an interstate natural gas company or an entity  
6           that is subject to regulation under the federal  
7           Natural Gas Act, 15 U.S.C. s. 717, files condemnation  
8           proceedings in federal court to acquire property from  
9           property owners of this state, the same protections  
10          afforded to property owners under state law be applied  
11          in federal court, to the greatest extent possible;  
12          providing legislative intent that certain condemnation  
13          proceedings to acquire private property from property  
14          owners of this state be filed in state court rather  
15          than federal court under certain circumstances;  
16          providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. This act may be cited as the "Buck McCulley  
21 Private Property Rights Protection Act."

22           Section 2. Section 361.05, Florida Statutes, is amended to  
23 read:

24           361.05 Right of eminent domain to natural gas companies.—

25           (1) Any corporation or other business entity organized  
26 under the laws of this state, or by virtue of the laws of any  
27 other state, and qualified to do business in this state, for the  
28 purpose of supplying any city, town, village or the inhabitants  
29 thereof, or any community with natural gas for domestic or

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30 industrial purposes, including any natural gas transmission  
31 pipeline company that has received certification under ss.  
32 403.9401-403.9425 or an entity that is subject to regulation  
33 under the federal Natural Gas Act, 15 U.S.C. s. 717, shall have  
34 the right of eminent domain and may use the provisions of  
35 chapters 73 and 74 to lay its pipelines and works; to cause such  
36 examinations and surveys for the proposed pipelines to be made  
37 as shall be necessary for the selection of the most advantageous  
38 routes; to enter upon any land, public or private, necessary to  
39 the business contemplated in its charter; to construct its  
40 pipelines across, over, under, along, and upon any stream of  
41 water, watercourse, canal, lake, bay, gulf, road, street,  
42 highway, railroad, and transmission line; to take from any land  
43 most convenient to its pipelines and works, any timber, stone,  
44 earth, water, or other material which may be necessary to the  
45 construction, operation, keeping in repair, or preservation of  
46 its pipelines, works, and improvements, upon making due  
47 compensation according to law to private owners, with such  
48 reservation, if any, of oil, gas, and mineral rights as those  
49 owners may determine. If, in order to make repairs to or to  
50 relocate any tracks of any railroad or for the performance of  
51 any work of construction or reconstruction by any railroad upon  
52 its right-of-way, it becomes necessary to relocate temporarily  
53 or permanently any natural gas pipeline constructed upon any  
54 railroad right-of-way, such work incident to the relocation of  
55 such natural gas pipeline shall be performed, and the expense  
56 borne, by the company owning or operating that pipeline.

57 (2) The Legislature recognizes that when the power of  
58 eminent domain is exercised by natural gas companies, an

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59 interstate natural gas company or an entity that is subject to  
60 regulation under the federal Natural Gas Act, 15 U.S.C. s. 717,  
61 may elect to file condemnation proceedings in either state or  
62 federal court. If a filing is made in federal court, it is the  
63 intent of the Legislature that the same protections afforded to  
64 property owners under the laws of this state be applied in the  
65 federal court to the greatest extent possible. As such, it is  
66 the intent of the Legislature that all of this state's  
67 substantive law relating to eminent domain be considered part of  
68 the state's practice and procedure to be applied in federal  
69 court which, without limitation, includes all of the rights and  
70 privileges afforded to property owners in the State Constitution  
71 and chapters 73 and 74 as interpreted by the state's decisional  
72 law. This includes, but is not limited to, a jury trial to  
73 determine the measure of full compensation to be paid for the  
74 taking of private property as is guaranteed by the State  
75 Constitution, payment of business damages in a partial taking,  
76 and payment by the condemnor of the owners' attorney fees and  
77 costs, which is also a part of full compensation guaranteed by  
78 the State Constitution. Moreover, if a corporation or other  
79 business entity organized under the laws of this state, or by  
80 virtue of the laws of any other state, and qualified to do  
81 business in this state, for the purpose of supplying any city,  
82 town, village or the inhabitants thereof, or any community with  
83 natural gas for domestic or industrial purposes, including any  
84 natural gas transmission pipeline company that has received  
85 certification under ss. 403.9401-403.9425 or an entity that is  
86 subject to regulation under the federal Natural Gas Act, 15  
87 U.S.C. s. 717, seeks to avail itself of any of the rights or

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88 powers provided in this section, then it is the intent of the  
89 Legislature that, as a condition of exercising such right or  
90 power, any condemnation proceeding to acquire private property  
91 for its pipeline or works in the state be filed in state court  
92 rather than federal court.

93 Section 3. This act shall take effect July 1, 2015.