

ASSEMBLY, No. 181

STATE OF NEW JERSEY

INTRODUCED JANUARY 25, 1965

By Assemblymen TANZMAN and HIERING

Referred to Committee on Highways, Transportation and Public Utilities

AN ACT concerning the acquisition of land by condemnation instituted by the State Highway Commission and amending section 27:7-22 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 27:7-22 of the Revised Statutes is amended to read as follows:
2 27:7-22. The commissioner may acquire lands or rights therein by gift,
3 devise or purchase, or by condemnation in the manner provided in chapter
4 1 of the Title Eminent Domain (§ 20:1-1 et seq.), [and enter upon and take
5 property in advance of making compensation therefor where for any reason
6 he cannot acquire the property by agreement with the owner.

7 Upon the commissioner exercising the right of condemnation and enter-
8 ing upon and taking land in advance of making compensation therefor, he
9 shall present a petition, and proceedings shall be had to fix the compensation,
10 to be paid to the owner, as provided in said chapter 1 of the Title Eminent
11 Domain.] *except as otherwise provided by this section.*

12 *Upon the institution of an action to fix the compensation to be paid, or*
13 *at any time thereafter, the department may file with the Clerk of the Superior*
14 *Court a declaration of taking, signed by the commissioner, declaring that the*
15 *possession of one or more of the tracts or parcels of property described in the*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

16 petition is thereby being taken by and for the use of the department.
17 The declaration of taking shall be sufficient if it sets forth (1) a description
18 of each tract or parcel of property to be taken; (2) a statement of the estate
19 or interest in the said property being taken; and (3) a statement of the sum
20 of money estimated by the department to be just compensation for the taking.
21 Upon the filing of said declaration, the department shall deposit with the Clerk
22 of the Superior Court the amount of the estimated compensation stated in said
23 declaration.

24 Upon the filing of the declaration and the depositing with the Clerk of the
25 Superior Court the amount of the estimated compensation as stated in the
26 declaration, the department, without other process or proceedings shall be
27 entitled to the exclusive possession and use of each tract or parcel of prop-
28 erty described in the declaration and may forthwith enter into and take pos-
29 session of said property, it being the intent of this provision that the action
30 to fix the compensation to be paid or any other proceeding relating to the
31 taking of such property or entering therein shall not delay the taking of pos-
32 session and the use thereof by the department for purposes authorized by this
33 act. The department shall not abandon any condemnation proceeding subse-
34 quent to the date upon which it has taken possession of the property as herein
35 provided.

36 The department shall cause notice of the filing of said declaration and
37 the making of said deposit to be served upon each party to the action to fix
38 the compensation to be paid, who resides in this State, either personally or
39 by leaving a copy thereof at his residence, and upon each such party who re-
40 sides out of the State by mailing copy thereof to him at his residence. In the
41 event that the residence of any such party or the name of such party is un-
42 known, such notice shall be published at least once in the newspaper published
43 or circulating in the county or counties in which the property is located. Such
44 service, mailing or publishing shall be made within 10 days after the filing
45 the declaration. Upon the application of any party in interest and after notice
46 to other parties in interest, including the department, the Superior Court

47 may direct that the money deposited with the Clerk of the Superior Court or
48 any part thereof be paid forthwith to the person or persons entitled thereto
49 for or on account of the just compensation to be awarded in such action; pro-
50 vided, that each person shall have filed with the Clerk of the Superior Court
51 a consent in writing that, in the event the award in the action shall be less than
52 the amount deposited, the court, after such notice as the court prescribes and
53 a hearing, may determine the liability, if any, for the return of such difference
54 or any part thereof and enter judgment therefor.

55 If the amount of the award as finally determined by the court shall ex-
56 ceed the amount so deposited, the person or persons to whom the award is pay-
57 able shall be entitled to recover from the department the difference between
58 the amount of the deposit and the amount of the award, with interest at the
59 rate of 6% per annum thereon from the date of the making of the deposit.
60 If the amount of the award shall be less than the amount so deposited, the
61 Clerk of the Superior Court shall return the difference between the amount
62 of the award and the deposit to the department unless the amount of the de-
63 posit or any part thereof shall have theretofore been distributed, in which
64 event the court, upon application of the department and notice to all parties
65 interested in the award and affording them an opportunity to be heard, shall
66 enter judgment in favor of the department for such difference against the
67 party or parties liable for the return thereof.

1 2. This act shall take effect immediately.

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 181

STATE OF NEW JERSEY

ADOPTED APRIL 5, 1965

Amend page 1, section 1, line 2, after the word "therein" insert "whether for immediate or future use".

Amend page 1, section 1, line 14, after the word "commissioner," insert the following: ", or such employees of the highway department as may be designated by him,".

Amend page 2, section 1, line 40, after the word "residence" insert ", if known".

Amend page 2, section 1, line 44, delete "10" and insert in lieu thereof "20".

Amend page 2, section 1, line 46, after the word "department" insert "and the Director of the Division of Taxation, Department of the Treasury".

[OFFICIAL COPY REPRINT]

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2 27:7-22. The commissioner may acquire lands or rights therein **whether*
3 *for immediate or future use** by gift, devise or purchase, or by condemna-
4 tion in the manner provided in chapter 1 of the Title Eminent Domain
5 (§20:1-1 et seq.), [and enter upon and take property in advance of making
6 compensation therefor where for any reason he cannot acquire the property
6a by agreement with the owner.

7 Upon the commissioner exercising the right of condemnation and enter-
8 ing upon and taking land in advance of making compensation therefor, he
9 shall present a petition, and proceedings shall be had to fix the compensation,
10 to be paid to the owner, as provided in said chapter 1 of the Title Eminent
11 Domain.] *except as otherwise provided by this section.*

12 *Upon the institution of an action to fix the compensation to be paid, or*
13 *at any time thereafter, the department may file with the Clerk of the Superior*
14 *Court a declaration of taking, signed by the commissioner, *or such employees.*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

14A of the highway department as may be designated by him,* declaring that the
15 possession of one or more of the tracts or parcels of property described in the
16 petition is thereby being taken by and for the use of the department.
17 The declaration of taking shall be sufficient if it sets forth (1) a description
18 of each tract or parcel of property to be taken; (2) a statement of the estate
19 or interest in the said property being taken; and (3) a statement of the sum
20 of money estimated by the department to be just compensation for the taking.
21 Upon the filing of said declaration, the department shall deposit with the Clerk
22 of the Superior Court the amount of the estimated compensation stated in said
23 declaration.

24 Upon the filing of the declaration and the depositing with the Clerk of the
25 Superior Court the amount of the estimated compensation as stated in the
26 declaration, the department, without other process or proceedings shall be
27 entitled to the exclusive possession and use of each tract or parcel of prop-
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29 session of said property, it being the intent of this provision that the action
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34 quent to the date upon which it has taken possession of the property as herein
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36 The department shall cause notice of the filing of said declaration and
37 the making of said deposit to be served upon each party to the action to fix
38 the compensation to be paid, who resides in this State, either personally or
39 by leaving a copy thereof at his residence, and upon each such party who re-
40 sides out of the State by mailing thereof to him at his residence *if known*. In
41 the event that the residence of any such party or the name of such party is un-
42 known, such notice shall be published at least once in the newspaper published
43 or circulating in the county or counties in which the property is located. Such
44 service, mailing or publishing shall be made within ***[10]*** *20* days after the
45 filing the declaration. Upon the application of any party in interest and after

46 notice to other parties in interest, including the department *and the Director
46A of the Division of Taxation, Department of the Treasury*, the Superior Court
47 may direct that the money deposited with the Clerk of the Superior Court or
48 any part thereof be paid forthwith to the person or persons entitled thereto
49 for or on account of the just compensation to be awarded in such action; pro-
50 vided, that each person shall have filed with the Clerk of the Superior Court
51 a consent in writing that, in the event the award in the action shall be less than
52 the amount deposited, the court, after such notice as the court prescribes and
53 a hearing, may determine the liability, if any, for the return of such difference
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55 If the amount of the award as finally determined by the court shall ex-
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60 If the amount of the award shall be less than the amount so deposited, the
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64 event the court, upon application of the department and notice to all parties
65 interested in the award and affording them an opportunity to be heard, shall
66 enter judgment in favor of the department for such difference against the
67 party or parties liable for the return thereof.

1 2. This act shall take effect immediately.

FOR RELEASE: June 2, 1965

Assembly Bill 181, 1965

FROM: OFFICE OF THE GOVERNOR

Governor Richard J. Hughes, on June 1, 1965, signed the following bills:

Senate Bill No. 2 - increases the salaries of certain judges and court officials, and amends the law governing the pension benefits of certain judges to provide for a partial contributory pension program.

Senate Bill No. 135 - provides that a copy of the mechanic's notice of intent instead of just a written notice be served upon the owner of the premises when said notice is filed with the county clerk. Governor Hughes announced his intention to sign this bill on this date on May 11, 1965.

Senate Bill No. 273 - increases certain superior and county court fees. Governor Hughes announced his intention to sign this bill on this date on May 21, 1965.

Senate Bill No. 346 - extends the period until June 15, 1965, within which an appeal may be filed with the Division of Tax Appeals with respect to the validity or amount of any assessment or reassessment of property made by the Director of the Division of Taxation for the tax year 1965.

Assembly Bill No. 155 - makes certain technical changes regarding the procedures to be used for the registration of vital statistics. Governor Hughes announced his intention to sign this bill on this date on May 12, 1965.

Assembly Bill No. 181 - establishes the procedure to be followed by the State Highway Commissioner when he wishes to take property prior to condemnation. The Governor stated, when he approved this measure:

"This bill was developed by my administration with the cooperation of the State Highway Department and the Assembly sponsors. It guarantees to those persons who lose their property through condemnation the right to obtain funds immediately, even where the amount of compensation is in dispute, and will, therefore, help alleviate the hardship that would otherwise be imposed on such persons. While the taking of property for condemnation for highway construction is an unavoidable necessity in many instances, the State has the responsibility to assure the persons affected by such an act that they will not be harmed financially. This bill helps achieve this goal."

Assembly Bill No. 441 - establishes in the Department of Agriculture the offices of State Chemist and State Seed Analyst.

Assembly Bill No. 715 - amends the Higher Education Assistance Authority Act to permit loans to students at schools of professional nursing accredited or approved by the New Jersey Board of Nursing. The Governor stated:

"This measure is a companion bill to the earlier one extending the scholarship program to persons training to be nurses. It was developed by the Governor's Task Force on Nursing and I join with the members of this group in expressing my hope that it will encourage many more persons to enter upon a career of nursing."

Assembly Bill No. 764 - amends the law concerning pensions for justices of the Supreme Court and judges of the Superior Court to provide that the minimum years of service required under such pension law can be composed of service rendered in lower courts, as well as the Supreme and Superior Courts.

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