

By Shelby Friesz

Nebraska News Service

Property owners would have 10 days to consider negotiations over eminent domain claims to their land if a bill heard by the Judiciary Committee Tuesday is passed.

Sen. Bill Avery of Lincoln presented a bill (LB533) that would give property owners adequate time to consider their rights before negotiating with such entities, especially in regard to oil and gas pipelines.

Twelve people testified in support of the bill and two testified against it.

The notice required by the bill must be hand delivered or delivered through certified mail. It would include a description of the project, including maps, people involved, and why that specific area was chosen. Along with the notification, property owners would receive a list of their rights.

“The power to exercise eminent domain exemplifies a very careful balancing exercise between private rights and public purpose,” Avery said.

Avery added that the bill stemmed from the special legislative session on the TransCanada Keystone XL pipeline, noting that he wanted to protect the property owners’ rights.

Many supporters said they believed the bill was a good starting point to address the issue of eminent domain.

Shelley Sahling-Zart with the Lincoln Electric System and Nebraska Public Power District said that the utilities with which she works takes the right of eminent domain seriously.

“We believe that right comes with responsibility,” she said, adding that the responsibility extends to property owners and fair treatment.

Other supporters, many of whom were landowners, said the bill allowed enough time for property owners to consider the negotiations.

Ben Gotschall with the Nebraska Easement Action Team and the Nebraska Farmers Union said that many landowners agree to easements, or rights of others to use their land, because they feel they have little time to consider negotiating.

The bill would give them the adequate time and knowledge of their rights and options to make these decisions, he said.

Those who spoke against the bill included lobbyists for gas companies.

John Lindsay, a lobbyist for Source Gas, Black Hills Energy and Northern Natural Gas, and Andy Pollock, a lobbyist for Northwestern Energy, said that the bill would be redundant and conflict, at times, with what federal and state law already requires of gas companies.

Lindsay said that federal law does not allow companies to discuss what is expected in the notification until three business days after the application for the project has been accepted, making this bill’s 10 days’ notice requirement conflict with federal law.

Lindsay also said that the companies he represents like to make contact early with landowners and worry that any contact would be considered making negotiations.

Both Lindsay and Pollock said that these companies rarely use eminent domain in their practices, and Lindsay said he rarely heard complaints against gas companies.

Avery said that most of the opposition heard in committee could be reconciled. Lindsay added that he would be happy to assist with any amendments that could be added to the bill to address the opposition’s concerns.

