

HOUSE BILL 3058

By Niceley

AN ACT to amend Tennessee Code Annotated, Section 7-56-207; Title 64, Chapter 2, Part 3; Title 65, Chapter 6, Part 1 and Title 65, Chapter 14, Part 1, relative to the fair market value of property in eminent domain proceedings.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-56-207, is amended by redesignating the existing language as subsection (a) and adding the following as a new, appropriately designated subsection:

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(1) The fair market value of the property to be taken by eminent domain pursuant to this section shall be based on the highest and best use of the property. For the purposes of this section, "highest and best use" means the most profitable use after all improvements have been made to the property, without regard to that use which is legally allowable.

(2) The highest and best use shall be considered in establishing the fair market value of the property to be taken to the extent that the prospect of such use affects the market value of the property.

(3) The determination of highest and best use shall not be limited to current zoning or land use restrictions presently imposed upon the property.

SECTION 2. Tennessee Code Annotated, Title 65, Chapter 6, Part 1, is amended by adding the following as a new, appropriately designated section:

Section 65-6-1__.

(a) The fair market value of the property to be taken by eminent domain pursuant to this section shall be based on the highest and best use of the property. For the purposes of this section, "highest and best use" means the most profitable use after all improvements have been made to the property, without regard to that use which is legally allowable.

(b) The highest and best use shall be considered in establishing the fair market value of the property to be taken to the extent that the prospect of such use affects the market value of the property.

SECTION 3. Tennessee Code Annotated, Title 65, Chapter 14, Part 1, is amended by adding the following as a new, appropriately designated section:

Section 65-14-1__.

(a) The fair market value of the property to be taken by eminent domain pursuant to this section shall be based on the highest and best use of the property. For the purposes of this section, "highest and best use" means the most profitable use after all improvements have been made to the property, without regard to that use which is legally allowable.

(b) The highest and best use shall be considered in establishing the fair market value of the property to be taken to the extent that the prospect of such use affects the market value of the property.

SECTION 4. The provisions of this act shall take effect July 1, 2010, the public welfare requiring it.