

**§ 104-20. Utilities Commission to secure right-of-way; condemnation by United States.**

If the title to any part of the lands required by the United States government for the construction of an inland waterway from Beaufort Inlet to the Cape Fear River is owned by a private person, company or corporation, railroad company, street railway company, telephone or telegraph company, or other public service corporation, or has been donated or condemned for any public use by any political subdivision of the State or if it may be necessary, for the purpose of obtaining the proper title to any lands, the title to which has heretofore been vested in the State Board of Education, then the Utilities Commission, in the name of the State of North Carolina, may secure a right-of-way 1,000 feet wide for the inland waterway across and through the lands or any part thereof, if possible by purchase, donation or otherwise, through agreement with the owner or owners, and when any property is thus acquired, the Governor and Secretary of State shall execute a deed for the same to the United States; and if for any reason the Commission is unable to secure a right-of-way across the property by voluntary agreement with the owner or owners as aforesaid, the Commission acting for and in behalf of the State of North Carolina, is hereby vested with the power to condemn the same, and in so doing, the ways, means, methods and procedure of Chapter 40A of the General Statutes of North Carolina, entitled "Eminent Domain," shall be used by it as near as the same is suitable for the purposes of this law, and in all instances, the general and the special benefits to the owner thereof shall be assessed as offsets against the damages to the property or lands.

As condemnation proceedings might result in delay in the acquiring of title to all parts of the right-of-way and in the construction of the inland waterway by the United States, the Utilities Commission is authorized to enter any of the lands and property and take possession of the same at the time hereinafter provided as needed for this use in behalf of the State or the United States government for the purposes herein set out prior to the bringing of the proceeding for condemnation and prior to the payment of the money for the land or property under any judgment in condemnation. In the event the owner or owners shall appeal from the report of the commissioners appointed in the condemnation proceeding it shall not be necessary for the Commission, acting in behalf of the State of North Carolina, the State of North Carolina, or the United States government, to deposit the money assessed by the commissioners with the clerk.

Whenever proceedings in condemnation are instituted under the provisions of this section, the Commission upon the filing of the petition or petitions in the proceedings, may take immediate possession on behalf of the State of the lands or property to the extent of the interest to be acquired and the Governor and Secretary of State shall thereupon execute a deed to the United States and the lands or property may then be appropriated and used by the United States for the purposes described in this section. Provided, that in every case the proceedings in condemnation shall be diligently prosecuted to final judgment in order that the just compensation to which the owners of the property are entitled may be ascertained and when so ascertained and determined the compensation shall be promptly paid as hereinafter in this law provided.

If the United States government shall so determine, it is hereby authorized to condemn and use all lands and property that may be needed for the purposes herein set out and which is specifically described and set out in the preceding paragraphs, under the authority of the United States government, and according to the provisions existing in the federal statutes for condemning lands and property for the use of the United States government. In case the United States government shall so condemn the land and property, the Utilities Commission is hereby authorized to pay all expenses of the condemnation proceedings and any award that may be made thereunder, out of the money that may be appropriated for these purposes. (1927, c. 44, s. 2; 1929, c. 4; c. 7, s. 1; 1937, c. 434; 2001-487, s. 38(d).)