

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 458

Short Title: Eminent Domain. (Public)

Sponsors: Representatives Riddell, D. Hall, Arp, and Tyson (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

March 27, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, TO
PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL
BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR STATUTORY
CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 39. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Just
compensation shall be paid and shall be determined by a jury at the request of any party."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to
the qualified voters of the State at the general election in 2024, which election shall be conducted
under the laws then governing elections in the State. Ballots, voting systems, or both may be used
in accordance with Chapter 163 of the General Statutes. The question to be used in the voting
systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit condemnation of private property except for a
public use and to provide for the payment of just compensation with right of trial by jury in all
condemnation cases."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment
set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the
Secretary of State. The Secretary of State shall enroll the amendment so certified among the
permanent records of that office. The amendment set out in Section 1 of this act becomes
effective upon certification and applies to takings after that date.

SECTION 4. G.S. 40A-3 reads as rewritten:

"§ 40A-3. By whom right may be exercised.

(a) Private Condemnors. – For the public ~~use or benefit, use,~~ the persons or organizations
listed below shall have the power of eminent domain and may acquire by purchase or
condemnation property for the stated purposes and other works which are authorized by ~~law-law:~~

- (1) Corporations, bodies politic or persons have the power of eminent domain for
the construction of railroads, power generating facilities, substations,
switching stations, microwave towers, roads, alleys, access railroads,
turnpikes, street railroads, plank roads, tramroads, canals, ~~telegraphs,~~



1 ~~telephones, communication facilities,~~ electric power lines, electric lights,
2 public water supplies, public sewerage systems, flumes, bridges, facilities
3 related to the distribution of natural gas, and pipelines or mains for the
4 transportation of petroleum products, coal, natural gas, limestone or minerals.
5 Land condemned for any liquid pipelines ~~shall~~shall meet both of the
6 following requirements:

7 a. Not be less than 50 feet nor more than 100 feet in ~~width;~~ and width.

8 b. Comply with the provisions of G.S. 62-190(b).

9 The width of land condemned for any natural gas pipelines shall not be more
10 than 100 feet.

11 ...

12 (b) Local Public Condemnors – Standard Provision. – For the public ~~use or benefit,~~ use,
13 the governing body of each municipality or county shall possess the power of eminent domain
14 and may acquire by purchase, gift or condemnation any property, either inside or outside its
15 boundaries, for the following purposes:

16 ...

17 (b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the
18 public ~~use or benefit,~~ use, the governing body of each municipality or county shall possess the
19 power of eminent domain and may acquire by purchase, gift or condemnation any property or
20 interest therein, either inside or outside its boundaries, for the following purposes:

21 ...

22 (c) Other Public Condemnors. – For the public ~~use or benefit,~~ use, the following political
23 entities shall possess the power of eminent domain and may acquire property by purchase, gift,
24 or condemnation for the stated ~~purposes;~~ purposes:

25 ...

26 (d) Connection of Customers. – For the public use, private condemnors, local public
27 condemnors, and other public condemnors in subsections (a), (b), (b1), and (c) of this section
28 shall possess the power of eminent domain and may acquire by purchase, gift, or condemnation
29 any property for the connection of any customer or customers."

30 **SECTION 5.** Section 4 of this act is effective when it becomes law and applies to
31 takings occurring on or after that date. The remainder of this act is effective when it becomes
32 law.