

SECOND REGULAR SESSION

SENATE BILL NO. 704

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WRIGHT-JONES.

Read 1st time January 25, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4840S.01I

AN ACT

To repeal sections 508.050 and 523.010 RSMo, and to enact in lieu thereof two new sections relating to condemnation proceedings.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 508.050 and 523.010, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 508.050 and 523.010, to
3 read as follows:

508.050. Suits against municipal corporations as defendant or codefendant
2 shall be commenced only in the county in which the municipal corporation is
3 situated, or if the municipal corporation is situated in more than one county, then
4 suits against the municipal corporation shall be commenced only in that county
5 wherein the seat of government of the municipal corporation is situated; except
6 that:

7 (1) Suits may be brought against a city containing more than four
8 hundred thousand inhabitants in any county in which any part of the city is
9 situated; **and**

10 (2) **Suits in inverse condemnation or involving dangerous**
11 **conditions of public property against a municipal corporation**
12 **established under Article VI, Section 30(a) of the Missouri Constitution**
13 **shall be brought only in the county where such land or any part thereof**
14 **lies.**

523.010. 1. In case land, or other property, is sought to be appropriated
2 by any road, railroad, street railway, telephone, telegraph or any electrical
3 corporation organized for the manufacture or transmission of electric current for
4 light, heat or power, including the construction, when that is the case, of
5 necessary dams and appurtenant canals, flumes, tunnels and tailraces and

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

6 including the erection, when that is the case, of necessary electric steam
7 powerhouses, hydroelectric powerhouses and electric substations or any oil,
8 pipeline or gas corporation engaged in the business of transporting or carrying
9 oil, liquid fertilizer solutions, or gas by means of pipes or pipelines laid
10 underneath the surface of the ground, or other corporation created under the laws
11 of this state for public use, and such corporation and the owners cannot agree
12 upon the proper compensation to be paid, or in the case the owner is incapable
13 of contracting, be unknown, or be a nonresident of the state, such corporation may
14 apply to the circuit court of the county of this state where such land or any part
15 thereof lies by petition setting forth the general directions in which it is desired
16 to construct its road, railroad, street railway, telephone, or telegraph line or
17 electric line, including, when that is the case, the construction and maintenance
18 of necessary dams and appurtenant canals, tunnels, flumes and tailraces and,
19 when that is the case, the appropriation of land submerged by the construction
20 of such dam, and including the erection and maintenance, when that is the case,
21 of necessary electric steam powerhouses, hydroelectric powerhouses and electric
22 substations, or oil, pipeline, liquid fertilizer solution pipeline, or gas line over or
23 underneath the surface of such lands, a description of the real estate, or other
24 property, which the company seeks to acquire; the names of the owners thereof,
25 if known; or if unknown, a pertinent description of the property whose owners are
26 unknown and praying the appointment of three disinterested residents of the
27 county, as commissioners, or a jury, to assess the damages which such owners
28 may severally sustain in consequence of the establishment, erection and
29 maintenance of such road, railroad, street railway, telephone, telegraph line, or
30 electrical line including damages from the construction and maintenance of
31 necessary dams and the condemnation of land submerged thereby, and the
32 construction and maintenance of appurtenant canals, flumes, tunnels and
33 tailraces and the erection and maintenance of necessary electric steam
34 powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline,
35 or gas line over or underneath the surface of such lands; to which petition the
36 owners of any or all as the plaintiff may elect of such parcels as lie within the
37 county or circuit may be made parties defendant by names if the names are
38 known, and by the description of the unknown owners of the land therein
39 described if their names are unknown.

40 2. If the proceedings seek to affect the lands of persons under
41 conservatorship, the conservators must be made parties defendant. If the present
42 owner of any land to be affected has less estate than a fee, the person having the

43 next vested estate in remainder may at the option of the petitioners be made
44 party defendant; but if such remaindermen are not made parties, their interest
45 shall not be bound by the proceedings.

46 3. It shall not be necessary to make any persons party defendants in
47 respect to their ownership unless they are either in actual possession of the
48 premises to be affected claiming title or having a title of the premises appearing
49 of record upon the proper records of the county.

50 4. Except as provided in subsection 5 of this section, nothing in this
51 chapter shall be construed to give a public utility, as defined in section 386.020,
52 or a rural electric cooperative, as provided in chapter 394, the power to condemn
53 property which is currently used by another provider of public utility service,
54 including a municipality or a special purpose district, when such property is used
55 or useful in providing utility services, if the public utility or cooperative seeking
56 to condemn such property, directly or indirectly, will use or proposes to use the
57 property for the same purpose, or a purpose substantially similar to the purpose
58 **[that] for which** the property is being used by the provider of the public utility
59 service.

60 5. A public utility or a rural electric cooperative may only condemn the
61 property of another provider of public utility service, even if the property is used
62 or useful in providing utility services by such provider, if the condemnation is
63 necessary for the public purpose of acquiring a nonexclusive easement or
64 right-of-way across the property of such provider and only if the acquisition will
65 not materially impair or interfere with the current use of such property by the
66 utility or cooperative and will not prevent or materially impair such provider of
67 public utility service from any future expansion of its facilities on such property.

68 6. If a public utility or rural electric cooperative seeks to condemn the
69 property of another provider of public utility service, and the conditions in
70 subsection 4 of this section do not apply, this section does not limit the
71 condemnation powers otherwise possessed by such public utility or rural electric
72 cooperative.

73 **7. Suits in inverse condemnation or involving dangerous**
74 **conditions of public property against a municipal corporation**
75 **established under Article VI, Section 30(a) of the Missouri Constitution**
76 **shall be brought only in the county where such land or any part thereof**
77 **lies.**