

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 8
Committee Substitute Favorable 4/6/11
Third Edition Engrossed 4/28/11

Short Title: Eminent Domain.

(Public)

Sponsors:

Referred to:

January 27, 2011

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

7 The General Assembly of North Carolina enacts:

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

10 "**Sec. 19.1. Eminent domain.**

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

13 SECTION 2. The amendment set out in Section 1 of this act shall be submitted to
14 the qualified voters of the State at a statewide election to be conducted on November 6, 2012,
15 which election shall be conducted under the laws then governing elections in the State. Ballots,
16 voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
17 The question to be used in the voting systems and ballots shall be:

18 "[] FOR [] AGAINST

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

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

27 SECTION 4.(a) G.S. 40A-3(1) and the prefatory language of G.S. 40A-3(a) read
28 as rewritten:

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

- 33 (1) Corporations, bodies politic or persons have the power of eminent domain
34 for the construction of railroads, power generating facilities, substations,
35 switching stations, microwave towers, roads, alleys, access railroads,



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1 turnpikes, street railroads, plank roads, tramroads, canals, telegraphs,
2 telephones, electric power ~~lines,~~lines including those to connect to
3 customers, electric lights, public water supplies, public sewerage systems,
4 flumes, bridges, and pipelines or mains originating in North Carolina for the
5 transportation of petroleum products, coal, gas, limestone or minerals. Land
6 condemned for any liquid pipelines shall:

- 7 a. Not be less than 50 feet nor more than 100 feet in width; and
- 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 **SECTION 4.(b)** The prefatory language of G.S. 40A-3(b) reads as rewritten:

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

17 **SECTION 4.(c)** The prefatory language of G.S. 40A-3(b1) reads as rewritten:

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

22 **SECTION 4.(d)** The prefatory language of G.S. 40A-3(c) reads as rewritten:

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

26 **SECTION 5.** This act is effective when it becomes law.