

SECOND REGULAR SESSION

HOUSE BILL NO. 1293

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LEARA (Sponsor), NICHOLS, FUHR, McNEIL, TAYLOR,
CARLSON, ALLEN, HAEFNER, SCHUPP, GOSEN, ATKINS AND McGEOGHEGAN (Co-sponsors).

4634L.011

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Sections 508.050 and 523.010, RSMo, are repealed and two new sections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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

33 2. If the proceedings seek to affect the lands of persons under conservatorship, the
34 conservators must be made parties defendant. If the present owner of any land to be affected has
35 less estate than a fee, the person having the next vested estate in remainder may at the option of
36 the petitioners be made party defendant; but if such remaindermen are not made parties, their
37 interest shall not be bound by the proceedings.

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

41 4. Except as provided in subsection 5 of this section, nothing in this chapter shall be
42 construed to give a public utility, as defined in section 386.020, or a rural electric cooperative,
43 as provided in chapter 394, the power to condemn property which is currently used by another
44 provider of public utility service, including a municipality or a special purpose district, when
45 such property is used or useful in providing utility services, if the public utility or cooperative
46 seeking to condemn such property, directly or indirectly, will use or proposes to use the property
47 for the same purpose, or a purpose substantially similar to the purpose [that] **for which the**
48 property is being used by the provider of the public utility service.

49 5. A public utility or a rural electric cooperative may only condemn the property of
50 another provider of public utility service, even if the property is used or useful in providing
51 utility services by such provider, if the condemnation is necessary for the public purpose of
52 acquiring a nonexclusive easement or right-of-way across the property of such provider and only
53 if the acquisition will not materially impair or interfere with the current use of such property by
54 the utility or cooperative and will not prevent or materially impair such provider of public utility
55 service from any future expansion of its facilities on such property.

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

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

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