

SENATE BILL NO. 444

BY SENATOR EDMONDS

1 AN ACT

2 To enact Part XIII of Title 19 of the Louisiana Revised Statutes of 1950, to be comprised of
3 R.S. 19:396 through 409, relative to expropriation; to authorize the city of St. George
4 in East Baton Rouge Parish to acquire property by expropriation through a
5 declaration of taking; to provide for acquisition of property; to provide for vesting
6 of title prior to judgment; to provide for certain procedures; to provide for
7 definitions; to provide for an effective date; and to provide for related matters.

8 Notice of intention to introduce this Act has been published.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part XIII of Title 19 of the Louisiana Revised Statutes of 1950, comprised
11 of R.S. 19:396 through 409 is hereby enacted to read as follows:

12 **PART XIII. EXPROPRIATION BY A DECLARATION OF TAKING BY THE**
13 **CITY OF ST. GEORGE**

14 **§396. Definitions**

15 **As used in this Part, the following terms shall have the meaning ascribed**
16 **to them:**

17 **A. "Governing authority" means the city council of the city of St.**
18 **George.**

19 **B. "Property" means any portion of immovable property, including**
20 **corporeal property, servitudes, rights-of-way, easements, and other rights in or**
21 **to immovable property, and any improvements thereon, located within the**
22 **corporate limits of the city of St. George.**

23 **C. "Owner" means any person appearing of record as having an interest**
24 **in the property sought to be expropriated.**

25 **§397. Authority to expropriate; declaration of taking**

26 **A. When the city of St. George cannot amicably acquire property needed**
27 **for a public purpose, the city may acquire such property by expropriation and**

1 may acquire the property prior to judgment in the trial court fixing the amount
2 of compensation due.

3 B. The authority granted by this Part applies to property needed for any
4 street, road, highway, bridge, drainage, stormwater, flood protection, water,
5 utility, sewerage, electric, capital, or any other public project of the city of St.
6 George.

7 C. Except as otherwise provided in this Part, expropriation shall be
8 conducted in the same manner as expropriation by the Department of
9 Transportation and Development pursuant to R.S. 48:441 through 460, insofar
10 as those provisions are applicable.

11 D. Nothing in this Part authorizes the city of St. George to acquire by
12 declaration of taking any facility, utility plant, servitude, right-of-way,
13 easement, or other immovable property right owned, leased, operated,
14 maintained, or used by a utility subject to the jurisdiction of the Louisiana
15 Public Service Commission to furnish electric, gas, water, or sewerage service.
16 Nothing in this Part shall affect applicable utility relocation law or any
17 authority existing under R.S. 19:102 or other law.

18 §398. Petition for expropriation; venue

19 A. The city of St. George shall institute expropriation proceedings by
20 filing a petition in the Nineteenth Judicial District Court in the parish of East
21 Baton Rouge.

22 B. The petition shall include the following:

23 (1) Statement of the public purpose for which the property is sought.

24 (2) Description of the property to be expropriated.

25 (3) Name of each owner of record.

26 (4) Request for an order of expropriation and declaration of taking.

27 §399. Resolution of necessity; attachments to petition

28 A. Prior to filing suit under this Part, the governing authority shall adopt
29 a resolution authorizing the expropriation.

30 B. The resolution shall include a determination that the taking serves a

1 public purpose and is necessary for the project.

2 C. The petition shall have annexed thereto:

3 (1) A certified copy of the resolution of the governing authority.

4 (2) An itemized statement of the amount of money estimated to be just
 5 compensation for the property taken or damages incurred, signed by the person
 6 or persons making the estimate, stating the capacity in which they acted and the
 7 date of the estimate.

8 §400. Order of expropriation; deposit; vesting of title

9 A. Upon presentation of the petition and attachments, the court shall
 10 issue an order directing the city of St. George to deposit the estimated
 11 compensation into the registry of the court and declaring the property described
 12 in the petition transferred to the city of St. George upon deposit.

13 B. Upon deposit:

14 (1) Title to the property shall vest immediately in the city of St. George.

15 (2) The right to just compensation shall vest in the owner or owners.

16 (3) The city of St. George may enter upon and take possession of the
 17 property, subject to the provisions of this Part.

18 §401. Possession; inhabited improvements

19 A. If no inhabited improvement is located on the property, the city of St.
 20 George may take possession immediately upon deposit.

21 B. If an inhabited improvement is located wholly or partially upon the
 22 property, the court may postpone physical possession for a period not exceeding
 23 thirty days from the date of service of the order, or for such additional period
 24 as the court may determine upon fixing reasonable rental compensation.

25 §402. Service of pleadings

26 Certified copies of the petition, order of expropriation, and receipt for
 27 deposit shall be served upon each owner in accordance with law.

28 §403. Withdrawal of deposit

29 A. Upon application by any owner, the court may order all or any
 30 portion of the deposited funds paid to the owner on account of compensation to

1 be awarded.

2 B. The court shall order payment of taxes, liens, mortgages, and other
 3 encumbrances from the deposited funds as provided by law.

4 §404. Challenge to validity of taking

5 A. Any owner may contest the validity of the taking on the grounds that:

6 (1) The property was not expropriated for a public purpose.

7 (2) The petition or attachments fail to comply with this Part.

8 B. A motion to dismiss shall be filed within twenty-one days after service
 9 of the petition and shall be tried contradictorily with preference.

10 C. Failure to timely file a motion to dismiss constitutes a waiver of all
 11 defenses to the taking except claims for compensation or damages.

12 §405. Answer; delay

13 A. Any owner seeking compensation or damages shall file an answer
 14 within thirty days after service for a total taking, or ninety days after service for
 15 a partial taking.

16 B. The answer shall set forth the nature and amount of compensation or
 17 damages claimed.

18 §406. Trial on compensation

19 A. After an answer is filed and any motion to dismiss resolved, either
 20 party may request that the case be fixed for trial.

21 B. The court shall set the matter for trial with preference and shall
 22 provide at least thirty days notice of trial.

23 §407. Judgment

24 The court shall render judgment fixing just compensation and damages,
 25 if any, and ordering payment or refund of any excess deposit in accordance with
 26 law.

27 §408. Interest

28 Legal interest shall accrue on any amount awarded in excess of the
 29 deposited estimate from the date of taking until paid.

30 §409. Additional authority

1 The authority granted by this Part is in addition to any other
 2 expropriation authority granted by law and shall not be construed to limit or
 3 impair any other power of the city of St. George.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____