

6A.4 Right conferred.

The right to take private property for public use is hereby conferred:

1. *Counties.* Upon all counties for public purposes which are reasonable and necessary as an incident to the powers and duties conferred upon counties.

2. *Owners of land without a way to the land.* Upon the owner or lessee of lands, which have no public or private way to the lands, for the purpose of providing a public way which will connect with an existing public road.

a. The condemned public way shall not exceed forty feet in width when such lands are agricultural or have a single residence located on them. For all other uses, the condemned public way shall not exceed sixty-six feet.

b. The condemned public way shall be located on a division, subdivision or “forty” line, or immediately adjacent thereto, and along the line which is the nearest feasible route to an existing public road, or along a route established for a period of ten years or more by an easement of record or by use and travel to and from the property by the owner and the general public. The public way shall not interfere with buildings, orchards, or cemeteries.

c. When passing through enclosed lands, the public way shall be fenced on both sides by the condemner upon request of the owner of the condemned land. The condemner or the condemner’s assignee shall provide easement for access to the owner of property severed by the condemnation. The public way shall be maintained by the condemner or the condemner’s assignee, and shall not be considered any part of the primary or secondary road systems.

d. A public way condemned under this subsection shall not be considered an existing public road in subsequent condemnations to provide a public way for access to an existing public road.

3. *Owners of mineral lands.* Upon all owners, lessees, or possessors of land, for a railway right-of-way thereto not exceeding one hundred feet in width and located wherever necessary or practical, when such lands have no railway thereto and contain coal, stone, gravel, lead, or other minerals and such railway is necessary in order to reach and operate any mine, quarry, or gravel bed on said land and transport the products thereof to market. Such right-of-way shall not interfere with buildings, orchards, or cemeteries, and when passing through enclosed lands, fences shall be built and maintained on both sides thereof by the party condemning the land and by that party’s assignees. The jury, in the assessment of damages, shall consider the fact that a railway is to be constructed thereon.

4. *Cemetery associations.* Upon any private cemetery or cemetery association which is incorporated under the laws of this state relating to corporations not for pecuniary profit, and having its cemetery located outside the limits of a city, for the purpose of acquiring necessary grounds for cemetery use or reasonable additions thereto. The right granted in this subsection shall not be exercised until the board of supervisors, of the county in which the land sought to be condemned is located, has, on written application and hearing, on such reasonable notice to all interested parties as it may fix, found that the land, describing it, sought to be condemned, is necessary for cemetery purposes. The association shall pay all costs attending such hearing.

5. *Subdistricts of soil and water conservation districts.* Upon a subdistrict of a soil and water conservation district for land or rights or interests in the land as reasonable and necessary to carry out the purposes of the subdistrict.

6. *Cities.* Upon all cities for public purposes which are reasonable and necessary as an incident to the powers and duties conferred upon cities.

1. [S13, §2024-f; C24, 27, 31, 35, 39, §7806; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §471.4; 81 Acts, ch 117, §1084]

2. [C97, §2028; S13, §2028; C24, 27, 31, 35, 39, §7806; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §471.4]

3. [C97, §2028, 2031; S13, §2028; C24, 27, 31, 35, 39, §7806; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §471.4]

4. [S13, §1644-a – e; C24, 27, 31, 35, 39, §7806; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §471.4]

5. [C62, 66, 71, 73, 75, 77, 79, 81, S81, §471.4]

6. [R60, §1064; C73, §464, 470, 474; C97, §722, 880, 881; S13, §722, 729-b, 741-s; SS15, §741-d, 879-t, 880, 881; C24, 27, 31, 35, 39, §6134, 6195 – 6197, 6740; C46, §397.8, 403.1 – 403.3; C50, §391A.3, 397.8, 403.1 – 403.3, 420.51; C54, 62, 66, 71, 73, §368.37, 397.8; C75, 77, 79, 81, S81, §471.4]

83 Acts, ch 67, §1; 87 Acts, ch 23, §55

C93, §6A.4

2006 Acts, 1st Ex, ch 1001, §1, 49; 2008 Acts, ch 1032, §201

Referred to in §364.12A