

6B.2A Notice of proposed public improvement.

1. An acquiring agency shall provide written notice of a public hearing to each owner and any contract purchaser of record of agricultural land that may be the subject of condemnation. The authority under this chapter is not conferred and condemnation proceedings shall not begin unless a good faith effort is made to mail and publish the notice as provided in this section on the owner and any contract purchaser of record of the property subject to condemnation. The notice shall be mailed by ordinary mail, not less than thirty days before the date the hearing is held, to the owner and any contract purchaser of record of each property or property interest at the owner's and contract purchaser's last known address as shown in the records of the county auditor not less than seven days nor more than fourteen days prior to the date of mailing. A change in ownership of any such property which is not reflected in the records of the county auditor during the period those records are searched as above provided shall not affect the validity of the notice or any condemnation proceeding commenced on the basis of such notice. The notice shall be given and the public hearing held before adoption of the ordinance, resolution, motion, or other declaration of intent to fund the final site-specific design for the public improvement, to make the final selection of the route or site location for the public improvement, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement. If the location of the public improvement is changed or expanded after the decision has been made to proceed with the public improvement, a notice shall be mailed by ordinary mail no less than thirty days before the adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with a change in the location of the public improvement to the owner and any contract purchaser of record of the land to be acquired or condemned, if necessary, in the new location of the public improvement affected by the change. The mailed notice shall, at a minimum, include the following information:

- a. The general nature of the public improvement.
- b. A statement of the possibility that the acquiring agency may acquire part or all of the property or interest in the property by condemnation for the public improvement.
- c. The process to be followed by the acquiring agency in making the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.
- d. The time and place of a public hearing at which an opportunity is provided for public input into the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.
- e. The name, address, and telephone number of the person designated by the acquiring agency as the person to contact regarding the public improvement.
- f. A statement of rights of individual property owners with respect to the acquisition of their property and the availability of relocation benefits. The attorney general shall adopt by rule pursuant to chapter 17A a statement of rights which may be used in substantial form by any person required to provide the statement of rights as provided in this section.

2. The acquiring agency shall cause a notice to be published once in a newspaper of general circulation in the county or city where the agricultural land is located. The notice shall be published at least four but no more than twenty days before the public hearing is held as referred to in subsection 1. The published notice shall, at a minimum, include the following information:

- a. The general nature of the public improvement.
- b. A statement of the possibility that the acquiring agency may acquire part or all of the property or an interest in the property by condemnation for the public improvement.
- c. The process to be followed by the acquiring agency in making the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.
- d. The time and place of a public hearing at which an opportunity is provided for public input into the decision to fund the final site-specific design for the public improvement, to

make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.

e. The name, address, and telephone number of the contact person regarding the public improvement.

3. If the acquiring agency is a person required to obtain a franchise under chapter 478, compliance with section 478.2 shall satisfy the requirements of this section. If the acquiring agency is a person required to obtain a permit under chapter 479, compliance with section 479.5 shall satisfy the requirements of this section.

4. This section shall not apply to a condemnation of property by the state department of transportation or a county for right-of-way that is contiguous to an existing road right-of-way and necessary for the maintenance, safety improvement, repair, or upgrade of the existing road. Notwithstanding section 6B.2C, a condemnation of property by the state department of transportation pursuant to this subsection shall be approved by the director of the department of transportation. For purposes of this subsection, “*upgrade*” means to bring a road or bridge up to currently acceptable standards, including improved geometrics, passing lanes, turning lanes, climbing lanes, and improved shoulders. “*Upgrade*” does not include expanding a highway from two lanes to four lanes.

5. The time deadlines in this section do not apply during the existence of an emergency requiring the construction or repair of public improvements in situations where failure to immediately construct or repair would result in immediate danger to public health, safety, or welfare. The notices required in this section shall be provided to the owner as soon as practicable.

99 Acts, ch 171, §2, 42; 2000 Acts, ch 1178, §1; 2000 Acts, ch 1179, §2 – 4, 30; 2002 Acts, ch 1063, §1

Referred to in §6B.2D, 478.2, 478.6, 479.5, 479.7