

Senate Amendment 5019

Amendment Text

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1 1 Amend [Senate File 2042](#) as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 "Section 1. Section [6A.4](#), Code 1997, is amended to
1 5 read as follows:
1 6 6A.4 RIGHT CONFERRED.
1 7 1. The right to take private property for public
1 8 use is hereby conferred:
1 9

~~1.~~

- a. COUNTIES. Upon all counties for public
1 10 purposes which are reasonable and necessary as an
1 11 incident to the powers and duties conferred upon
1 12 counties.
1 13

~~2.~~

- b. OWNERS OF LAND WITHOUT A WAY TO THE LAND.
1 14 Upon the owner or lessee of lands, which have no
1 15 public or private way to the lands, for the purpose of
1 16 providing a public way, not exceeding forty feet in
1 17 width, which will connect with an existing public
1 18 road. The condemned public way shall be located on a
1 19 division, subdivision or "forty" line, or immediately
1 20 adjacent thereto, and along the line which is the
1 21 nearest feasible route to an existing public road, or
1 22 along a route established for a period of ten years or
1 23 more by an easement of record or by use and travel to
1 24 and from the property by the owner and the general
1 25 public. The public way shall not interfere with
1 26 buildings, orchards, or cemeteries. When passing
1 27 through enclosed lands, the public way shall be fenced
1 28 on both sides by the condemner upon request of the
1 29 owner of the condemned land. The condemner or the
1 30 condemner's assignee, shall provide easement for
1 31 access to the owner of property severed by the
1 32 condemnation. The public way shall be maintained by
1 33 the condemner or the condemner's assignee, and shall
1 34 not be considered any part of the primary or secondary
1 35 road systems.
1 36 A public way condemned under this subsection shall
1 37 not be considered an existing public road in
1 38 subsequent condemnations to provide a public way for
1 39 access to an existing public road.
1 40

~~3.~~

- c. OWNERS OF MINERAL LANDS. Upon all owners,
1 41 lessees, or possessors of land, for a railway right of
1 42 way thereto not exceeding one hundred feet in width
1 43 and located wherever necessary or practical, when such
1 44 lands have no railway thereto and contain coal, stone,
1 45 gravel, lead, or other minerals and such railway is
1 46 necessary in order to reach and operate any mine,
1 47 quarry, or gravel bed on said land and transport the
1 48 products thereof to market. Such right of way shall

1 49 not interfere with buildings, orchards, or cemeteries,
1 50 and when passing through enclosed lands, fences shall
2 1 be built and maintained on both sides thereof by the
2 2 party condemning the land and by that party's
2 3 assignees. The jury, in the assessment of damages,
2 4 shall consider the fact that a railway is to be
2 5 constructed thereon.
2 6

~~4.~~

- d. CEMETERY ASSOCIATIONS. Upon any private
2 7 cemetery or cemetery association which is incorporated
2 8 under the laws of this state relating to corporations
2 9 not for pecuniary profit, and having its cemetery
2 10 located outside the limits of a city, for the purpose
2 11 of acquiring necessary grounds for cemetery use or
2 12 reasonable additions thereto. The right granted in
2 13 this subsection shall not be exercised until the board
2 14 of supervisors, of the county in which the land sought
2 15 to be condemned is located, has, on written
2 16 application and hearing, on such reasonable notice to
2 17 all interested parties as it may fix, found that the
2 18 land, describing it, sought to be condemned, is
2 19 necessary for cemetery purposes. The association
2 20 shall pay all costs attending such hearing.
2 21

~~5.~~

- e. SUBDISTRICTS OF SOIL AND WATER CONSERVATION
2 22 DISTRICTS. Upon a subdistrict of a soil and water
2 23 conservation district for land or rights or interests
2 24 in the land as reasonable and necessary to carry out
2 25 the purposes of the subdistrict.
2 26

~~6.~~

- f. CITIES. Upon all cities for public purposes
2 27 which are reasonable and necessary as an incident to
2 28 the powers and duties conferred upon cities.
2 29 2. "Public use" or "public purposes" does not
2 30 include condemnation of private property by the state
2 31 or a city or county or by an agency of the state or an
2 32 agency of a city or county on behalf of a private,
2 33 for-profit entity."
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2 36 _____
2 37 JACK RIFE
2 38 SF 2042.502 77
2 39 sc/jw/28