

2020 Regular Session

SENATE BILL NO. 424

BY SENATOR WHITE

MUNICIPALITIES. Authorizes the city of Central to expropriate property by declaration for the purpose of maintaining and improving drainage. (gov sig)

1 AN ACT

2 To enact Part XI of Title 19 of the Louisiana Revised Statutes of 1950, to be comprised of
3 R.S. 19:371 through 381, relative to expropriation of property; to authorize the city
4 of Central, in East Baton Rouge Parish to expropriate by a declaration of taking; to
5 define terms; to provide for procedures; to provide for purposes of the expropriation;
6 to provide for an effective date; and to provide for related matters.

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XI of Title 19 of the Louisiana Revised Statutes of 1950, comprised
10 of R.S. 19:371 through 381, is hereby enacted to read as follows:

11 **PART XI. EXPROPRIATION BY A DECLARATION OF TAKING**

12 **BY THE CITY OF CENTRAL**

13 **§371. Definitions**

14 **As used in this Part, the following terms shall mean:**

15 **(1) "Governing authority" means the city council for the city of Central.**

16 **(2) "Property" means any portion of immovable property, including**

17 **corporeal property, servitudes, rights-of-way, and other rights in or to**

1 immovable property located within the corporate limits of the city of Central.

2 §372. Authority to expropriate property for drainage maintenance or
3 improvements prior to judgment

4 When the governing authority cannot amicably acquire property needed
5 for current or future drainage maintenance or improvements, including but not
6 limited to access to such improvements, it may acquire such property by
7 expropriation and may acquire the property prior to judgment in the trial court
8 fixing the amount of compensation due to the property owner in the manner set
9 forth in this Part.

10 §373. Appointment of appraisers

11 A. The governing authority shall select one or more appraisers licensed
12 pursuant to the Louisiana Real Estate Appraisers Law to estimate just
13 compensation to be paid to the property owners except when the estimate is
14 expected to exceed thirty thousand dollars in which case two or more appraisers
15 shall be selected. When the governing authority cannot amicably acquire clear
16 title to property solely for reasons unrelated to the amount of just compensation
17 to be paid, such as unopened successions, absentee defendants, or partial
18 interests, one person shall be selected to make the estimate regardless of the
19 amount. The appraiser performing the estimate shall be familiar with land
20 values in the vicinity of the property and shall conduct the appraisal in
21 accordance with real estate appraisal guidelines.

22 B. Prior to filing a petition for expropriation, the governing authority
23 shall provide to each owner the following information with respect to each
24 estimate of the loss:

25 (1) The name, address, and qualifications of the person or persons
26 preparing the estimate.

27 (2) A copy of the estimate prepared by each appraiser including a
28 description of the methodology used in the estimate.

29 §374. Contents of petition for expropriation; place of filing

1 The authority to expropriate granted by this Part shall be exercised in
2 the following manner:

3 (1) The governing authority shall file a petition in the Nineteenth Judicial
4 District Court.

5 (2) The petition shall contain a statement of the purpose for which the
6 property is to be expropriated, a description of the property to be expropriated,
7 a description of any improvements, the reason the governing authority could
8 not amicably acquire clear title, and the name of each owner shown on the
9 conveyance records for East Baton Rouge Parish.

10 (3) The petition shall have annexed thereto the following:

11 (a) A certified copy of a resolution of the governing authority authorizing
12 the expropriation and declaring the public purpose authorized by this Part.

13 (b) A certificate signed by the city engineer declaring the proposed
14 maintenance or improvement is in the interest of the safety and protection of
15 citizens of the city of Central.

16 (c) A certificate signed by the director of public works declaring whether
17 any buildings or improvements are located wholly or partially upon the
18 property described in the petition.

19 (d) An itemized statement of the amount of the estimate of the loss for
20 the expropriation or the damage, or both, the methodology used in the estimate
21 and all information required by this Part relative to the estimate, signed by the
22 estimator, showing the capacity in which they acted, and the date on which the
23 estimate was made.

24 (4) The petition shall conclude with a prayer that the property be
25 transferred to the governing authority for drainage maintenance or
26 improvements.

27 §375. Ex parte order for deposit; vesting of title

28 A. Upon presentation of the petition, the court shall issue an order
29 directing the amount of the estimate be deposited in the registry of the court

1 and declaring the property described in the petition transferred to the
2 governing authority for drainage maintenance or improvements at the time of
3 deposit. Upon the deposit of the estimate in the registry of the court for the
4 benefit of the property owners, the clerk of court shall issue a receipt showing
5 the amount deposited, the date of the deposit, suit caption, and the description
6 of the property described in the petition.

7 B.(1) Upon the governing authority depositing the amount ordered by
8 the court, title to the property specified in the petition shall vest in the
9 governing authority, and the right to just and adequate compensation therefor
10 shall vest in the property owners. Upon vesting of title, the governing authority
11 may enter upon and take possession of the property if there are no inhabited
12 improvements located upon the expropriated property.

13 (2) If any inhabited improvement is located wholly or partially upon the
14 property expropriated, the court may postpone the right of entry for up to
15 thirty calendar days from the date on which the last defendant was served with
16 the notice; however, the governing authority may request the court to order
17 possession surrendered after a longer delay upon the court fixing a reasonable
18 rental to be paid to the governing authority by a defendant in possession of the
19 property for each day the defendant remains in possession after the withdrawal
20 of any part of the deposited funds.

21 §376. Notice to property owners

22 Upon receipt of the deposit, certified copies of the petition, judgment,
23 and the receipt for the deposit shall be served upon each property owner.

24 §377. Withdrawal of deposit

25 Upon the application of any property owner, and upon due notice to the
26 governing authority and all other property owners and lienholders, the court
27 may order the money deposited, or any part thereof, be paid forthwith to the
28 person entitled thereto for or on account of the just and adequate compensation
29 to be awarded in the proceedings. The court shall order the payments of taxes,

1 encumbrances, and other charges out of the deposit.

2 §378. Contesting validity of taking; waiver of defenses

3 A. Any defendant may contest the validity of an expropriation on the
4 grounds the property was not expropriated for an authorized purpose or the
5 petition and attached exhibits do not comply with this Part by filing a motion
6 to dismiss the petition within twenty days after the date of service on the
7 defendant. The motion to dismiss shall be tried contradictorily by the assigned
8 judge, with preference to other civil proceedings, and shall be decided prior to
9 fixing the case for trial.

10 B. Failure to file a motion to dismiss within the time provided or to serve
11 a copy thereof on the governing authority constitutes a waiver of all defenses to
12 the expropriation except claims for compensation.

13 §379. Answer; delay for filing

14 A. Where an entire lot, block, or tract of land is expropriated, any
15 defendant may apply for a trial to determine the measure of compensation by:

16 (1) Filing an answer within ninety days from the date of service of the
17 petition setting forth the amount claimed, including all of the following:

18 (a) The value of each parcel expropriated and the amount of damages to
19 the remainder of the property, if any.

20 (b) A reasonable itemization of the damages claimed, if any.

21 B. Where a portion of a lot, block, or tract of land is expropriated, any
22 defendant may apply for a trial to determine the measure of compensation by:

23 (1) Filing an answer within one year from the date of service of the
24 petition setting forth the amount claimed, including all of the following:

25 (a) The value of each parcel expropriated and the amount claimed as
26 damages to the remainder of his property, if any.

27 (b) A reasonable itemization of the damages claimed, if any.

28 §380. Fixing for trial; notice

29 After answer is filed, if no motion to dismiss is filed pursuant to this Part,

1 either party may, upon ex parte motion, request that the matter be set for trial.

2 The court shall fix the time for the trial not more than sixty days after the filing

3 of the motion to dismiss. The trial shall be conducted with preference to other

4 civil proceedings, and shall be decided expeditiously. Notice of trial shall be

5 served on all parties at least thirty days before the time fixed for the trial.

6 §381. Grant as additional authority

7 The right to take possession and title in advance of final judgment,

8 provided herein, is in addition to any right or authority conferred by the laws

9 of this state under which expropriation proceedings may be conducted by

10 municipalities, and shall not be construed as abrogating, eliminating, or

11 modifying any such right or authority.

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Michael Bell.

DIGEST

SB 424 Reengrossed

2020 Regular Session

White

Proposed law authorizes the governing authority for the city of Central to acquire immovable property through expropriation.

Proposed law requires the governing authority to select one or more appraisers licensed pursuant to the Louisiana Real Estate Appraisers Law to estimate just compensation to be paid to the property owners except when the estimate is expected to exceed \$30,000, in which case, two or more appraisers shall be selected. Furthermore, proposed law provides that when the governing authority cannot amicably acquire clear title to property solely for reasons unrelated to the amount of just compensation to be paid, such as unopened successions, absentee defendants, or partial interests, then one person is to be selected to make the estimate regardless of the amount.

Proposed law provides that prior to filing a petition for expropriation, the governing authority must provide to each owner, with respect to each estimate of the loss, the name, address, and qualifications of the person or persons preparing the estimate and a copy of the estimate prepared by each appraiser including a description of the methodology used in the estimate.

Proposed law requires when the authority for expropriation has been granted the following

must occur:

- (1) The governing authority has to file a petition in the 19th Judicial District Court.
- (2) The petition must contain a statement of the purpose for which the property is to be expropriated, a description of the property, the property to be expropriated, a description of any improvements, the reason the governing authority could not amicably acquire clear title, and the name of each owner shown on the conveyance records for East Baton Rouge Parish.
- (3) The petition must have the following attached to it: a certified copy of a resolution of the governing authority authorizing the expropriation and declaring the public purpose authorized by proposed law; a certificate signed by the city engineer declaring the proposed maintenance or improvement is in the interest of the safety and protection of citizens of the city of Central; a certificate signed by the director of public works declaring whether any buildings or improvements are located wholly or partially upon the property described in the petition; an itemized statement of the amount of the estimate of the loss for the expropriation or the damage, or both, the methodology used in the estimate, and all information required by this Part relative to estimate, signed by the estimator, showing the capacity in which they acted, and the date on which the estimate was made.
- (4) The petition must conclude with a prayer that the property be transferred to the governing authority for drainage maintenance and/or improvements.

Proposed law provides that upon presentation of the petition, the court must issue an order directing the amount of the estimate be deposited in the registry of the court and declaring the property described in the petition transferred to the governing authority for drainage maintenance and/or improvements at the time of deposit. Proposed law further requires that upon the deposit of the estimate in the registry of the court for the benefit of the property owners, the clerk of court shall issue a receipt showing the amount deposited, the date of the deposit, suit caption, and the description of the property described in the petition.

Proposed law provides that any defendant may contest the validity of an expropriation on the grounds the property was not expropriated for an authorized purpose or the petition and attached exhibits do not comply with proposed law by filing a motion to dismiss the petition within 20 days after the date of service on the defendant. The motion to dismiss must be tried contradictorily by the assigned judge, with preference to other civil proceedings, and shall be decided prior to fixing the case for trial. Failure to file a motion to dismiss within the time provided or to serve a copy thereof on the governing authority constitutes a waiver of all defenses to the expropriation except claims for compensation.

Proposed law provides that where an entire lot, block, or tract of land is expropriated, any defendant may apply for a trial to determine the measure of compensation by filing an answer within 90 days from the date of service of the petition setting forth the amount claimed, including the value of each parcel expropriated and the amount of damages to the remainder of the property, if any; and a reasonable itemization of the damages claimed, if any. Proposed law also provides that where a portion of a lot, block, or tract of land is expropriated, any defendant may apply for a trial to determine the measure of compensation by filing an answer within one year from the date of service of the petition setting forth the amount claimed, including the value of each parcel expropriated and the amount of damages to the remainder of the property, if any; and a reasonable itemization of the damages claimed, if any.

Proposed law provides that after an answer is filed, if no motion to dismiss is filed pursuant to proposed law, either party may, upon ex parte motion, request that the matter be set for

trial. The trial must commence not more than 60 days after the filing of the motion to dismiss and notice of trial shall be served on all parties at least 30 days before the time fixed for the trial.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 19:371-381)