

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 794
HOUSE BILL 726

AN ACT CONCERNING THE EXERCISE OF THE POWER OF EMINENT
DOMAIN IN CONNECTION WITH SMALL WATERSHED PROGRAMS IN
WAKE COUNTY.

The General Assembly of North Carolina do enact:

Section 1. Article 2 of Chapter 139 of the General Statutes is hereby amended by adding thereto a new Section, to be given an appropriate number, and to read as follows:

"G. S. 139-.... Power of eminent domain conferred on watershed improvement districts in limited circumstances. (a) A watershed improvement district shall have the power to acquire by condemnation any interest in land needed in carrying out, in connection with any construction unit, the purposes of this Chapter. This power may be exercised only after:

- (1) The district makes application to the Committee –
 - (i) Identifying the construction unit involved and describing the land sought to be condemned;
 - (ii) Stating the total number of tracts of land with respect to which interests in land are needed by the district for purposes of said construction unit and describing said tracts;
 - (iii) Stating the number of such tracts with respect to which such interests have been acquired by the district without exercising the power of condemnation and describing said tracts; and
 - (iv) Stating the purpose for which said land is needed; and
- (2) The Committee finds that the land is sought to be acquired for a proper district purpose and that the district has without exercising the power of condemnation acquired needed land interests from the owners of at least seventy-five per centum (75%) in number of the total number of tracts of land referred to in clause (ii) of paragraph (1) of this subsection.

Prior to transmittal to the Committee every such application shall be dated by the district, and all determinations by the district or the Committee concerning the number of tracts shall be made as of said date. The findings of the Committee hereunder shall be conclusive in the absence of fraud, notwithstanding any other provision of law.

(b) The Committee shall certify copies of its findings to the applicant district, the State Board and the Clerk of Superior Court of the county or counties wherein any part of the district lies for recordation in the special proceedings thereof.

(c) For purposes of this Section:

(1) The term 'interest in land' means any land, right-of-way, right-of-access, privilege, easement, or other interest in or relating to land. Said term includes an interest in land held for public uses or purposes, which land is not necessary or essential for said public uses or purposes and is not in actual use therefor. Said term also includes an interest in land owned or held as right-of-way by a public utility company, except that of railroad companies, provided that the operation of such utility company may not be impaired unreasonably thereby.

(2) A 'description' of land shall be sufficient if the boundaries of the land are described in such a way as to convey an intelligent understanding of the location of the land. In the discretion of the applicant district, boundaries may be described by any of the following methods or any combination thereof: by reference to a map; by metes and bounds; by general description referring to natural boundaries, or to boundaries of existing political subdivisions or municipalities, or to boundaries, of particular tracts or parcels of land.

(3) A 'construction unit' means a structure or other work of improvement, or a group of closely related or interrelated structures or other works of improvement, which in the judgment of the trustees of the applicant district would be economically justified in the absence of the remaining works of improvement included in the project, and which is designated in a watershed work plan or other work plan as a construction unit. For purposes of clause (a) (1) (i) of this Section, a construction unit may be identified by listing the works of improvement involved and stating the location of such works, using any of the methods permitted in paragraph (2) of this subsection for description of land boundaries.

(4) A 'tract of land' includes any tract, lot or parcel of land wholly contained within a continuous boundary. For purposes of this Section, two or more contiguous pieces of land shall be considered a single 'tract' if the fee is owned by the same person or persons, even though:

- (i) the several pieces were acquired at different times, or
- (ii) the tract is intersected by easements or rights-of-way for road, utility or other purposes.

(d) The procedure in all condemnation proceedings pursuant to this Section shall conform as nearly as possible to the procedure provided in G. S. Chapter 40, Article 2, and all Acts amendatory thereof.

(e) Interests in land acquired pursuant to this Section may be used in such manner and for such purposes as the trustees of the district deem best. If, in the opinion of the trustees, such lands should be sold, leased or rented, the trustees may do so, subject to the approval of the Committee."

Sec. 1½. Article 3 of Chapter 139 of the North Carolina General Statutes is hereby amended by adding thereto a new Section, to be given an appropriate number, and to read as follows:

"139-.... Power of eminent domain conferred on counties in limited circumstances. A county which has been authorized to levy a watershed improvement tax pursuant to this Article shall have, for purposes of its county watershed improvement program, the

powers conferred upon watershed improvement districts by Section 1 of this Act, subject to the limitations and procedures prescribed therein, For this purpose, a county shall be considered a watershed improvement district, and the board of county commissioners shall be considered the trustees of the applicant district."

Sec. 2. This Act shall apply only to Davie, Iredell, Polk, Rowan, Wake and Yadkin Counties.

Sec. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1961.