

## HOUSE BILL No. 2750

By Committee on Governmental Organization and Elections

1-27

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9 AN ACT concerning eminent domain; relating to land surveys; amending  
10 K.S.A. 12-1306, 24-438, 24-467, 26-201 and 72-8212a and repealing  
11 the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 12-1306 is hereby amended to read as follows: 12-  
15 1306. ~~Whenever it shall become necessary in any city to condemn or~~  
16 ~~appropriate land within or without the limits of said city for public parks~~  
17 ~~for the use and benefit of the people of said city, and shall be so declared~~  
18 ~~necessary by the council or by any board of city commissioners of said~~  
19 ~~city to condemn or appropriate any private property, where the purchase~~  
20 ~~price cannot be agreed upon with the owner of said property, said council~~  
21 ~~or city commissioners shall then cause a survey to be made by some~~  
22 ~~competent engineer and said survey and description of said land so re-~~  
23 ~~quired shall be filed with the city clerk, and thereupon said council or~~  
24 ~~board of city commissioners shall make an order declaring the necessity~~  
25 ~~of such appropriation and the purposes for which the same is to be con-~~  
26 ~~demned or appropriated and a description of the same as shown by said~~  
27 ~~survey, and all other and further proceedings necessary for the condem-~~  
28 ~~nation and appropriation of said land shall be had and conducted as pro-~~  
29 ~~vided by law the governing body of a city determines it is necessary to~~  
30 ~~condemn land, located within or outside the corporate limits of the city,~~  
31 ~~for public parks purposes or if the purchase price for such land cannot~~  
32 ~~be agreed upon with the owner of the property, the governing body shall~~  
33 ~~cause a survey and a description of such land to be made by a licensed~~  
34 ~~land surveyor. Such survey and land description shall be filed with the~~  
35 ~~city clerk. The governing body shall make an order declaring the necessity~~  
36 ~~of such condemnation and the purposes for which the land is to be con-~~  
37 ~~demned. Such order shall include the land description as shown by the~~  
38 ~~survey. Following the making of such order, the governing body may~~  
39 ~~proceed with condemnation proceedings in the manner provided by~~  
40 ~~K.S.A. 26-501 et seq., and amendments thereto.~~

41 Sec. 2. K.S.A. 24-438 is hereby amended to read as follows: 24-438.  
42 Whenever it ~~shall be~~ is deemed necessary to construct any levee across  
43 the right of way of any railroad company, and such railroad company ~~shall~~

1 ~~be~~ is entitled to compensation therefor, the board of directors ~~shall have~~  
 2 ~~the power to may~~ make such crossing or ~~to condemn and appropriate so~~  
 3 ~~may condemn as~~ much of such right of way or land as may be necessary  
 4 for that purpose ~~in the manner hereinafter provided, and whenever it~~  
 5 ~~shall be deemed. Whenever the board deems it~~ necessary to appropriate  
 6 ~~condemn~~ any private property for use by the district in widening, deep-  
 7 ening or otherwise improving any natural watercourse to prevent the  
 8 overflow thereof, or for the construction of any levee, canal, drain, or  
 9 other work, the board of directors shall cause a survey and description of  
 10 ~~the such land so required out of the right of way or lands of such railroad~~  
 11 ~~company or out of the lands of any private owner to be made by some~~  
 12 ~~competent engineer and filed with its secretary, and thereupon to be~~  
 13 ~~made by a licensed land surveyor. Such survey and land description shall~~  
 14 ~~be filed with the secretary of the board. The board shall make an order~~  
 15 declaring that the ~~appropriation of such land~~ condemnation is necessary  
 16 and setting forth for what purpose the ~~same land~~ is to be used. The board  
 17 ~~of directors~~, as soon as practicable thereafter, shall proceed to exercise  
 18 the power of eminent domain in accordance with K.S.A. 26-501 ~~to 26-~~  
 19 ~~516, inclusive et seq., and amendments thereto.~~

20 Sec. 3. K.S.A. 24-467 is hereby amended to read as follows: 24-467.  
 21 Whenever it ~~shall be~~ is deemed necessary to construct any ditch, levee,  
 22 dike, jetty, riprap or other protective structure across or upon the land of  
 23 any individual or corporation whether within or outside the territorial  
 24 limits of the drainage district and such individual or corporation ~~shall be~~  
 25 is entitled to compensation therefor, the board of directors shall ~~have the~~  
 26 ~~power to may~~ construct such ditch, levee, dike, jetty, riprap or other  
 27 protective structure or ~~to may~~ condemn and appropriate ~~so as~~ much of  
 28 such land as may be necessary for that purpose ~~in the manner hereinafter~~  
 29 ~~provided, and whenever it shall be deemed. Whenever the board deems~~  
 30 ~~it necessary to appropriate~~ condemn any private property for use by the  
 31 district in widening, deepening or otherwise improving any natural wa-  
 32 tercourse to prevent the overflow thereof or for the construction of any  
 33 ditch, dike, levee, jetty, riprap, canal, drain or other work, the board of  
 34 ~~directors~~ shall cause a survey and description of the land ~~so required out~~  
 35 ~~of the lands of any private owner (individual or corporation) to be made~~  
 36 ~~by some competent engineer and filed with its secretary, and thereupon~~  
 37 ~~to be made by a licensed land surveyor. Such survey and description shall~~  
 38 ~~be filed with the secretary of the board. The board shall make an order~~  
 39 declaring that the ~~appropriation~~ condemnation of such land is necessary  
 40 and setting forth for what purpose the ~~same land~~ is to be used, ~~and shall~~  
 41 ~~then~~ the board may proceed to exercise the power of eminent domain in  
 42 accordance with K.S.A. 26-501 ~~to 26-516, inclusive et seq., and amend-~~  
 43 ~~ments thereto.~~

1     Sec. 4. K.S.A. 26-201 is hereby amended to read as follows: 26-201.  
2 A city shall have the right to acquire by condemnation any interest in real  
3 property, including a fee simple title thereto. ~~Provided.~~ Cities shall not  
4 have the right to acquire a fee simple title to property condemned solely  
5 for street purposes. Whenever ~~it shall be deemed necessary by~~ the gov-  
6 erning body of any city *deems it necessary* to ~~appropriate~~ condemn private  
7 property for the use of the city for any purpose whatsoever, the governing  
8 body ~~shall~~, by resolution, *shall* declare such necessity and authorize a  
9 survey and description of the land or interest to be condemned to be  
10 made by ~~some competent engineer~~ *a licensed land surveyor* and filed  
11 with the city clerk. Such resolution shall be published once in the official  
12 city newspaper. Upon the filing of the survey and description of the land  
13 or interest to be condemned the governing body ~~shall~~, by ordinance, *shall*  
14 authorize and provide for the acquisition of such land or interest, setting  
15 forth such condemnation, the interest to be taken and for what purpose  
16 the same is to be used. If in the opinion of the governing body any prop-  
17 erty is specially benefited by the proposed improvement such property  
18 shall be designated as the benefit district and the same shall be fixed by  
19 the ordinance authorizing and providing for the acquisition of the land  
20 or interest. The governing body, as soon as practicable after passage of  
21 the ordinance authorizing and providing for the ~~appropriation~~ *condem-*  
22 *nation* of such land or interest and the fixing of the benefit district, if any  
23 is fixed, shall proceed to exercise the power of eminent domain in ac-  
24 cordance with K.S.A. 26-501 to 26-516 inclusive *et seq.*, and amendments  
25 thereto.

26     Sec. 5. K.S.A. 72-8212a is hereby amended to read as follows: 72-  
27 8212a. (a) A unified school district may acquire by condemnation, for  
28 school purposes, any interest in real property, including fee simple title.  
29 If, within 10 years after entry of final judgment under K.S.A. 26-511, *and*  
30 *amendments thereto*, the school district fails to construct substantial build-  
31 ings or improvements that are used for school purposes on any real prop-  
32 erty acquired under this subsection, the school district shall notify the  
33 original owners or their heirs or assigns that they have an option to pur-  
34 chase the property from the school district for an amount equal to the  
35 compensation awarded for the property under the eminent domain pro-  
36 cedures act. Such option shall expire if not exercised within a period of  
37 six months after the date of the expiration of the ten-year period.

38     (b) A unified school district may acquire by condemnation, for any  
39 purpose whatsoever, any reversionary interest held by others in real prop-  
40 erty which the school district has previously acquired by condemnation,  
41 deed or contract if:

42         (1) The district, or its predecessor districts, has constructed substan-  
43 tial improvements on the property; and

1       (2) the school district, or its predecessor districts, has held an interest  
2 in the property for at least 20 years.

3       (c) When the board of education of a unified school district considers  
4 it necessary to condemn a property interest pursuant to this section, the  
5 board shall declare the necessity by resolution and shall authorize a ~~com-~~  
6 ~~petent engineer~~ *licensed land surveyor* to make a survey and description  
7 of the property and the interest to be condemned ~~and to file them~~. *Such*  
8 *survey and land description shall be filed* with the clerk of the board. The  
9 resolution shall be published once in a newspaper having general circu-  
10 lation in the school district. Upon the filing of the survey and description,  
11 the board of education shall provide by resolution for the acquisition of  
12 the property interest by condemnation. The resolution shall set forth a  
13 description of the property, the interest to be condemned and the pur-  
14 pose for which the property is and will be used. The board of education,  
15 as soon as practicable after the passage of the resolution, shall proceed  
16 to exercise the power of eminent domain in the manner provided by  
17 article 5 of chapter 26 of the Kansas Statutes Annotated.

18       Sec. 6. K.S.A. 12-1306, 24-438, 24-467, 26-201 and 72-8212a are  
19 hereby repealed.

20       Sec. 7. This act shall take effect and be in force from and after its  
21 publication in the statute book.