

SENATE BILL No. 12

By Senator Shallenburger

1-16

1 AN ACT concerning the power of eminent domain; relating to the exercise
2 of such power by municipalities for recreational projects; requiring
3 approval by each member of the governing body whose district
4 territory includes the land being acquired; amending K.S.A. 26-201 and
5 repealing the existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) The board of county commissioners shall not
9 approve the exercise of eminent domain by such county unless each
10 county commissioner whose district territory includes the land, either in
11 whole or in part, that is to be acquired by eminent domain votes in the
12 affirmative to exercise eminent domain to acquire such land.

13 (b) This section shall apply to the acquisition of land for the purposes
14 stated under any of the provisions of article 28 of chapter 19 of the Kansas
15 Statutes Annotated, and amendments thereto, and for any other public
16 recreational purpose, including, but not limited to, nature areas,
17 entertainment venues, libraries and any other recreational building or
18 grounds that are not otherwise described in article 28 of chapter 19 of the
19 Kansas Statutes Annotated, and amendments thereto.

20 Sec. 2. K.S.A. 26-201 is hereby amended to read as follows: 26-201.

21 (a) A city shall have the right to acquire by condemnation any interest in
22 real property, including a fee simple title thereto, but cities shall not have
23 the right to acquire a fee simple title to property condemned solely for
24 street purposes. Whenever it shall be deemed necessary by the governing
25 body of any city to appropriate private property for the use of the city for
26 any purpose whatsoever, the governing body shall by resolution declare
27 such necessity and authorize a survey and description of the land or
28 interest to be condemned to be made by a licensed land surveyor or a
29 professional engineer who is competent to conduct a land survey and filed
30 with the city clerk. Such resolution shall be published once in the official
31 city newspaper. Upon the filing of the survey and description of the land or
32 interest to be condemned the governing body shall by ordinance authorize
33 and provide for the acquisition of such land or interest, setting forth such
34 condemnation, the interest to be taken and for what purpose the same is to
35 be used. If in the opinion of the governing body any property is specially
36 benefited by the proposed improvement such property shall be designated

1 as the benefit district and the same shall be fixed by the ordinance
2 authorizing and providing for the acquisition of the land or interest. The
3 governing body, as soon as practicable after passage of the ordinance
4 authorizing and providing for the appropriation of such land or interest and
5 the fixing of the benefit district, if any is fixed, shall proceed to exercise
6 the power of eminent domain in accordance with the eminent domain
7 procedure act.

8 *(b) (1) The governing body of a city shall not approve the exercise of*
9 *eminent domain by such city unless each member of such governing body*
10 *whose district territory includes the land, either in whole or in part, that is*
11 *to be acquired by eminent domain votes in the affirmative to exercise*
12 *eminent domain to acquire such land.*

13 *(2) This subsection shall apply to the acquisition of land for the*
14 *purposes stated under any of the provisions of article 28 of chapter 19 of*
15 *the Kansas Statutes Annotated, and amendments thereto, regarding the*
16 *acquisition of land by counties through the exercise of eminent domain*
17 *and for any other public recreational purpose, including, but not limited*
18 *to, nature areas, entertainment venues, libraries and any other*
19 *recreational building or grounds that are not otherwise described in*
20 *article 28 of chapter 19 of the Kansas Statutes Annotated, and*
21 *amendments thereto.*

22 Sec. 3. K.S.A. 26-201 is hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and after its
24 publication in the statute book.