

10-7-4 Water supply -- Acquisition -- Condemnation -- Protest -- Special election -- Determination of just compensation.

- (1) The board of commissioners, city council or board of trustees of any city or town may acquire, purchase or lease all or any part of any water, waterworks system, water supply or property connected therewith, and whenever the governing body of a city or town shall deem it necessary for the public good such city or town may bring condemnation proceedings to acquire the same; provided, that if within 30 days after the passage and publication of a resolution or ordinance for the purchase or lease or condemnation herein provided for one-third of the resident taxpayers of the city or town, as shown by the assessment roll, shall protest against the purchase, lease or condemnation proceedings contemplated, such proposed purchase, lease or condemnation shall be referred to a special election, and if confirmed by a majority vote thereat, shall take effect; otherwise it shall be void.
- (2) In all condemnation proceedings the value of land affected by the taking shall be considered in connection with the water or water rights taken for the purpose of supplying the city or town or the inhabitants thereof with water.
- (3) In determining just compensation in a condemnation proceeding under this section in a municipality located in a county of the first class where a determination of market value of what is proposed to be taken is impractical because there is no meaningful market for what is proposed to be taken, the value shall be:
 - (a) presumed to be the amount the owner paid to acquire ownership of what is proposed to be taken, as adjusted by a change in value due to post-acquisition deterioration and any other factor reasonably and equitably bearing on the value of what is proposed to be taken; and
 - (b) determined by applying equitable considerations including:
 - (i) whether the owner will be unjustly enriched;
 - (ii) whether the owner acquired the property by exaction or similar method; and
 - (iii) the extent to which the consideration the owner provided in acquiring the property consists of an obligation to maintain the property and whether that obligation will be assumed by the municipality because of the condemnation.
- (4) This section may not be construed to provide the basis for a municipality's condemnation of a political subdivision of the state or of the political subdivision's property or holdings.

Amended by Chapter 378, 2010 General Session