

78B-6-504 Conditions precedent to taking.

- (1) Before property can be taken it must appear that:
 - (a) the use to which it is to be applied is a use authorized by law;
 - (b) the taking is necessary for the use;
 - (c) construction and use of all property sought to be condemned will commence within a reasonable time as determined by the court, after the initiation of proceedings under this part; and
 - (d) if already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.
- (2)
 - (a) As used in this section, "governing body" means:
 - (i) for a county, city, or town, the legislative body of the county, city, or town; and
 - (ii) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.
 - (b) Property may not be taken by a political subdivision of the state unless the governing body of the political subdivision approves the taking.
 - (c) Before taking a final vote to approve the filing of an eminent domain action, the governing body of each political subdivision intending to take property shall provide written notice to each owner of property to be taken of each public meeting of the political subdivision's governing body at which a vote on the proposed taking is expected to occur and allow the property owner the opportunity to be heard on the proposed taking.
 - (d) The requirement under Subsection (2)(c) to provide notice to a property owner is satisfied by the governing body mailing the written notice to the property owner:
 - (i) at the owner's address as shown on the records of the county assessor's office; and
 - (ii) at least 10 business days before the public meeting.

Renumbered and Amended by Chapter 3, 2008 General Session