Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission 77 South High Street, 9th Floor, Columbus, OH 43215-6136 ∻ Phone: (614) 466-3615 *♦ Internet Web Site:* http://www.lsc.state.oh.us/

BILL:	Sub. H.B. 5		DATE:	March 28, 2007	
STATUS:	In House Judiciary		SPONSOR:	Rep. Gibbs	
LOCAL IMPA	ACT STATEMENT REQUIRED:	No —	No local cost		
CONTENTS: To implement the recommendations of the Eminent Domain Task Force					

State Fiscal Highlights

• No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNM	IENT FY 2007	FY 2008	FUTURE YEARS
Local Governments			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase in	Potential increase in	Potential increase in
	compensation costs for	compensation costs for	compensation costs for
	properties taken by eminent	properties taken by eminent	properties taken by eminent
	domain	domain	domain

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Prohibits public authorities from taking private properties for public use for the purpose of increasing revenues.
- Allows properties to be taken by eminent domain in certain circumstances, and establishes compensation guidelines for those takings. The new guidelines, which include provisions for compensation property owners, may potentially result in higher costs when eminent domain is invoked.

Detailed Fiscal Analysis

Provisions of the bill

The bill prohibits public authorities from taking private property for a public use for the purpose of increasing revenues for a public authority. Public authorities may not use the potential revenues as evidence that the property to be taken is blighted. The bill also exempts agricultural lands from being designated as blighted if the land is used for agricultural purposes as defined by section 303.01 or 519.01 of the Revised Code.

If a public agency acquires any real property, it must include a statement of the purpose of the appropriation and indicate that the prior owner possesses a right to repurchase the property if the public agency decides not to use the land for the stated purpose.

The bill also sets restrictions as to what purposes that property claimed by eminent domain may be used. No such property may be used for any private commercial enterprise, economic development, or any other private use unless that property is conveyed or leased to a public utility, a private entity that occupies an incidental area within a publicly owned project, or a private entity that shows a preponderance of evidence that the property is blighted as defined in section 1.08 of the Revised Code. Once a public entity finds an area blighted, it cannot appropriate the property until it adopts a comprehensive development plan, and obtains a resolution from the appropriate governing legislative body.

Impact on political subdivisions

There is no immediate direct fiscal impact on political subdivisions, but some local governments may experience a loss of revenues in the future that may have been available were they permitted to take certain private property through the use of eminent domain.

The bill also establishes some compensation requirements for property taken by eminent domain. The bill requires that any public agency compensate property owners for any moving or relocation costs, direct losses of tangible property, reasonable expenses associated with searching for replacement farms or businesses, and reasonable re-establishment costs. If the final award of compensation for property exceeds 125% of the public agency's original offer, the court is to enter judgment in favor of the owner for all costs and expenses.

Should a public agency take a property through eminent domain, the compensation cost requirements set forth in the bill could potentially exceed those that exist in current law, thereby resulting in increased expenditures for the public takings.

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