
HOUSE BILL No. 1194

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-11-1-5.5.

Synopsis: Eminent domain. Provides that when a person brings an eminent domain proceeding against land that is already in public use, the court may determine which of the competing public uses has priority. Requires the court to dismiss the eminent domain proceeding if the court finds that the land already in public use has priority, and permits the court to limit the amount of land taken in an eminent domain proceeding against land already in public use to only that land reasonably necessary to accomplish the public use. Permits the court to consider land already owned by the condemnor in determining how much land, if any, the condemnor requires for its public use. Provides that these provisions do not apply where the land that is the subject of the condemnation proceeding is to be used for the construction of a road or highway. Permits either party to appeal the court's ruling.

Effective: July 1, 2002.

Steele, Ulmer, Kuzman

January 10, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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HOUSE BILL No. 1194



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-11-1-5.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 5.5. (a) If:**
4 (1) the land that is the subject of an eminent domain
5 proceeding is currently in public use; and
6 (2) the owner objects under section 5 of this chapter that the
7 land sought to be taken is already in public use;
8 the court shall determine which of the competing public uses has
9 priority.
10 (b) If the court determines under subsection (a) that the present
11 public use of the land that is the subject of the eminent domain
12 proceeding has priority, the court shall dismiss the eminent domain
13 proceeding against the land.
14 (c) If the court determines under subsection (a) that the public
15 use for which the condemnor seeks to take the owner's land has
16 priority but that the public use for which the condemnor seeks to
17 take the land may be reasonably accomplished without taking all



1 the land that is the subject of the condemnation proceeding, the
2 court may limit the eminent domain proceeding to only that part
3 of the land reasonably necessary to accomplish the condemnor's
4 public use. In making a determination under this subsection, the
5 court may consider evidence that the condemnor already owns
6 land that is appropriate to accomplish the public use.

7 (d) If the court determines under subsection (a) that the public
8 use for which the condemnor seeks to take the owner's land has
9 priority but that the public use for which the condemnor seeks to
10 take the land may be reasonably accomplished using land that the
11 condemnor already owns, the court shall dismiss the eminent
12 domain proceeding against the land described in subsection (a)(1).

13 (e) This section does not apply to an eminent domain proceeding
14 in which the condemnor seeks to take land for the construction of
15 a road or highway.

16 (f) A party may appeal the court's determination under this
17 section as described in section 5 of this chapter.

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