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FISCAL IMPACT STATEMENT

LS 7127

BILL NUMBER: SB 391

SUBJECT: Eminent domain.

FIRST AUTHOR: Sen. Bowser

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

NOTE PREPARED: Jan 9, 2006

BILL AMENDED:

BILL STATUS: As Introduced

IMPACT: State & Local

Summary of Legislation: This bill prohibits the state or a political subdivision from transferring any interest in property acquired by eminent domain to another person for commercial use unless (1) there is a substantial likelihood that the acquisition of the property will promote the opportunity for employment or create business opportunities; and (2) the property is in a blighted area. The bill defines "blighted area" as an area in which normal development and occupancy are undesirable or impossible due to: (1) deterioration; (2) obsolescence; (3) substandard structures; or (4) the vacancy or abandonment of a significant percentage of the property in the area.

Effective Date: July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues: The state or a political subdivision may not transfer any interest in property acquired by eminent domain to another person for commercial use unless there is a substantial likelihood that the acquisition and transfer of the property will promote or retain the opportunity for gainful employment or create business opportunities; and the property is or is located within a blighted area.

Specifying conditions under which eminent domain may be used could reduce the number of instances wherein the state or political subdivision uses eminent domain to acquire property to be transferred for commercial use. This provision could affect any revenue that might have been generated from the transfer of property acquired through eminent domain. The bill could also affect the assessed value (AV) of the property involved. The State levies a small tax rate for State Fair and State Forestry. Any factors that affect the AV base could affect

property tax revenue for these two funds.

The specific impact of the bill, however, is indeterminable and will depend on state and local action and the specific properties involved.

Explanation of Local Expenditures: IC 32-24-1-3 provides that any person that may exercise the power of eminent domain must, among other provisions, make an effort to purchase the property. If the person seeking to acquire the property does not agree with the owner of the property concerning the damages sustained by the owner, the person seeking to acquire the property may file a complaint with the clerk of the circuit court of the county where the property is located. The bill provides that if the plaintiff intends to transfer the property to another person for a commercial use, the complaint must specifically state that the plaintiff intends to transfer the property to another person for commercial use and that the intended commercial use is permissible under the provisions of this bill.

The clerk of the circuit court would have to insure that the additional specified information is included in the complaint. The court should be able to cover any additional administrative expenses associated with this provision given existing resources and budgets.

Also, see State Expenditures above.

Explanation of Local Revenues: This bill would prevent a governmental entity under certain circumstances from acquiring land through the use of eminent domain and transferring it to another for commercial uses. The bill defines a commercial use as one that is not directly related to providing a governmental service or fulfilling a governmental responsibility. Commercial uses include private residential use or development, private development under a lease, and retail or industrial uses. The bill does not apply to specified utilities, local boards of aviation commissioners, local airport authorities, railroads, or an entity that owns or operates a pipeline that carries natural gas, crude oil or any of its constituents, refined products, or hazardous liquids.

This bill could prevent some redevelopment commissions from disposing of land which was acquired via eminent domain in order to transfer to private developers to make intended improvements. This provision could affect the assessed value (AV) of the property involved. Any factors that affect the AV could affect the amount of revenue that could be generated for cumulative funds. The revenue for cumulative funds equals the product of the fund rate multiplied by the AV applicable to that fund.

The specific impact, however, is indeterminable and will depend on local action and the specific properties involved.

State Agencies Affected: Any entity having the ability to exercise the power of eminent domain.

Local Agencies Affected: Clerks of the circuit courts, any entity having the ability to exercise the power of eminent domain.

Information Sources:

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