

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3258-01  
Bill No.: HB 803  
Subject: Eminent Domain and Condemnation: Roads and Highways; Transportation  
Type: Original  
Date: January 20, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of State Courts Administrator** stated this proposal would have no fiscal impact on the Courts.

Officials from the **Department of Transportation (DHT)** assume this proposal would require jurors to consider loss of access when awarding condemnation damages. They state that this is contrary to current law and practice in which the fair market value is considered before and after the taking. Typically, particularly in urban areas, damages awarded for loss of access represents a large portion of the ultimate costs of acquiring the right of way for completion of highway projects. Recent awards in the St. Louis area have resulted in the right of way cost increasing from \$1,000,000 to \$5,000,000, on a single commercial tract.

DHT further assumes the proposal would also direct appraisers, commissioners, and jurors to "consider" loss of direct access, including the prohibition of making right or left turns into or out of a property, in assessing damages. This expansion of the parameters for inclusion of damages is anticipated to lead to greater condemnation awards. The fiscal impact on DHT would be significant, however the amount is unknown.

Based on information provided by DHT, **Oversight** assumes DHT appraisers are trained as part of policy and procedure to consider loss of access damages with regard to highest and best use

ASSUMPTION (continued)

when performing an appraisal. Condemnation commissioners and juries are also directed to consider damages due to loss of access when formulating their awards in conjunction with realistic highest and best use of the property. Loss of access has always been compensable if it affects the ability of the owner to develop and operate his/her land for its highest and best use. Damages awarded for loss of access already represent a large portion of the ultimate costs of acquiring right of way for completion of highway projects in urban areas. **Oversight** assumes the unknown negative fiscal impact is speculation on the potential secondary effects of this proposal and no direct fiscal impact was noted.

<u>FISCAL IMPACT - State Government</u>	FY 2005	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2005	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal requires that when the State Highways and Transportation Commission acquires real estate through eminent domain the restriction or loss of access to any adjacent highway be considered when assessing damages. "Restriction or loss of access" includes the prohibition of making right or left turns into or out of the real estate involved, if access was present before the proposed improvement was built.

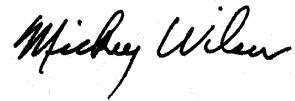
The proposal contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 3258-01  
Bill No. HB 803  
Page 4 of 4  
January 20, 2004

SOURCES OF INFORMATION

Department of Transportation  
Office of State Courts Administrator

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
January 20, 2004