

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3654-01
Bill No.: HB 1085
Subject: Cities, Towns and Villages; Economic Development; Property, Real and Personal.
Type: Original
Date: January 27, 2004

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Road Fund	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds *	(Unknown)	(Unknown)	(Unknown)

* Could exceed \$100,000 in any given year.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government*	(Unknown)	(Unknown)	(Unknown)

* Could exceed \$100,000 in any given year.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator** and the **Office of Administration - Division of Design and Construction** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Attorney General** assume that they can absorb any additional costs associated with this proposal. However, there may be some potential lost revenue to the state in out-years if the entity taking the property has to sell the property back to the original landowner at the same cost at which it was originally purchased ten years before.

Officials from the **Department of Transportation (DOT)** state that in Section 523.070, the proposed changes could be interpreted to simply remove the court's discretion to award the costs of the proceeding. This interpretation would have little effect on Missouri Highway and Transportation Commission (MHTC)/DOT. However, under the most likely interpretation, the proposed changes could mean that all costs of the proceeding, including attorney fees and expert witness fees, are to be paid by the condemner, which would include MHTC/DOT. This could significantly increase the costs of these proceedings because DOT could be paying all the bills of

the landowner in every condemnation proceeding.

ASSUMPTION (continued)

On average, MHTC acquires between 1,000 and 1,300 parcels of real property per year to support its project development program. Historically, MHTC acquires approximately 85% of these properties by negotiation with the landowner. Only about 15% of the total parcels needed per year must be acquired by condemnation. The opportunity to collect all attorney fees, appraisal fees, and engineering fees in every case could dramatically increase the number of condemnation cases since landowners will have little incentive to agree to a negotiated price for their property. Furthermore, there will be little incentive for property owners to control litigation costs if they can all be recovered from MHTC.

DOT assumes an unknown negative fiscal impact for all attorney fees, appraisal fees, and engineering fees and for the increased number of condemnation cases.

Officials from the **City of Boonville** state this bill could have far-reaching implications for their city. All riverfront property in the City's gaming district was purchased by a 353 Redevelopment Corporation, some of it through condemnation. The property was then transferred to the City's ownership within the one year time frame that would be disallowed by this proposal.

Giving individuals who were condemned upon the right of first refusal to repurchase the property at the same price paid to them if the property would no longer be a casino until the ten year limit expires, gives them the right of first refusal to portions of a property that has had a capital investment of over \$50 million, while most property owners in the area were paid between \$10,000 and \$100,000.

The potential effect of this bill could be as much as \$50 million to the City of Boonville.

Officials from the **City of Springfield** state the proposal could have a substantial fiscal impact on local government. The proposal provides that private property can not be taken by a political subdivision for 'private development purposes'. This would mean that the current University Plaza project (which currently produces \$300,000 in sales taxes and in real property taxes annually) could not have been built because the property was acquired from private persons and transferred to a private developer. The proposal would result in a loss to the City of Springfield of \$300,000 per year. In addition, the City currently buys up dangerous buildings which have been abandoned or unfit for human habitation in order to clear the title for redevelopment which properties are transferred to private developers. The annual estimated loss of this program, while difficult to measure, is substantial.

ASSUMPTION (continued)

Officials from the counties of **Andrew, Boone, Butler, Callaway, Cole and Greene** as well as the cities of **Belton, Kansas City, St. Louis, Independence, Rolla and North Kansas City** did not respond to our request for fiscal impact.

Oversight assumes the proposal could increase the cost to the local political subdivisions for condemnation proceedings, if required to pay all of the cost resulting from the proceedings. The proposal may also have an indirect negative impact on the development in cities and counties of the state if eminent domain can no longer be utilized to privately develop land within the local jurisdictions. However, Oversight assumes the act of eminent domain is discretionary and this proposal limits the causes for which eminent domain may be utilized. Oversight assumes the part of the proposal specifying that the original landowner be given the right of first refusal if the land is not developed within ten years is beyond the scope of this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
ROAD FUND			
<u>Costs</u> - potential increased costs of condemnation proceedings for the Department of Transportation	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE ROAD FUND *	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>

* Could exceed \$100,000 in any given year.

FISCAL IMPACT - Local Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

LOCAL POLITICAL SUBDIVISIONS

Costs - potential increased costs of
condemnation proceedings for local
political subdivisions

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT TO
LOCAL POLITICAL
SUBDIVISIONS***

(UNKNOWN)

(UNKNOWN)

(UNKNOWN)

*** Could exceed \$100,000 in any given year.**

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal makes several changes to the laws governing the condemnation of real property.
The proposal:

- (1) Requires the condemning entity to declare the exact location of the property desired and the specific intended use of the property;
- (2) Prohibits the condemning entity from using the property for any purpose other than its original intended purpose;
- (3) Prohibits the condemning entity from transferring the property to another entity;
- (4) Entitles the property owner the right to buy back any condemned property that the condemning entity does not use for 10 years;
- (5) Requires the condemning entity to pay for all costs of litigation; and
- (6) Establishes a method by which the court must appoint commissioners for condemnation

DESCRIPTION (continued)

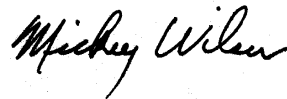
proceedings. The condemning entity will select a commissioner, the landowner will select a commissioner, and the two parties must agree on an independent appraiser to serve as the third commissioner. If they cannot agree on a third commissioner, the court will appoint one.

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

SOURCES OF INFORMATION

Office of the Attorney General
Office of Administration
Office of the State Courts Administrator
Department of Transportation
City of Boonville
City of Springfield

NOT RESPONDING: Counties of Andrew, Boone, Butler, Callaway, Cole and Greene as well as the cities of Belton, Kansas City, St. Louis, Independence, Rolla and North Kansas City



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Director
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