

HB 2063 -- Eminent Domain

Sponsor: Rupp

This bill changes the laws regarding the use of eminent domain. The power of eminent domain will be vested in governmental entities or agencies whose governing body is elected or appointed by elected officials, private utility companies, public utilities, rural electric cooperatives, municipally owned utilities, pipelines, railroads, and common carriers. In its main provisions, the bill specifies that:

(1) Private property may only be taken through the use of eminent domain after determining blight of the property or that the taking is for a public use and not without just compensation. Compensation will be determined by considering the comparable sales in the area, appraisal value of similar property taken by condemnation, term of ownership of the property by the current property owner, current use of the property, availability of comparable property in the area, anticipated profits of the acquiring entity that results from the acquisition, and any other relevant factors;

(2) Vacant land that has never been developed and farmland will not be determined to be blighted;

(3) At least 30 days prior to initiating negotiations to acquire a property interest, the condemning authority must give actual notification to the owner of record of its intent, the property interest to be acquired, the purpose for which the property is being condemned, the right of the property owner to obtain legal counsel, an appraisal paid for by the condemning authority, a judicial determination regarding the propriety of the condemnation, the amounts of the proposed compensation for the property, and the right to have these issues decided by a jury. The property owner may employ an appraiser to appraise the property to be acquired within 60 days upon receipt of the notice. Projects which are comprised of five or fewer parcels of property, less than 50 acres, or are solely for easements are exempt from the notification requirements. A written offer must be presented to the property owners of record at least 30 days before filing a condemnation petition;

(4) Before a condemning authority may proceed with condemnation, there must be a court determination that proper and timely notice was given to all property owners, an initial offer no lower than the appraisal amount was given, and that the landowner was given an opportunity to obtain his or her own appraisal at the condemning authority's expense. If any of these events do not occur, the condemnation petition will go no further;

(5) The court may order payment of the landowner's legal fees and expenses and award damages to the property owner if the condemning authority abandons condemnation prior to the final judgment of the court;

(6) Unless it is a total taking, a landowner may propose an alternative location on his or her property which must be considered by the condemning authority;

(7) No condemning authority will acquire private property through the process of eminent domain for solely economic purposes;

(8) The condemning authority must determine that each parcel of property located in a redevelopment plan is blighted. A condemnation petition must be filed within five years of this determination. If no petition is filed within the five-year period or if any parcel of property is determined not to be blighted, the authority to condemn will expire;

(9) Property interests acquired through eminent domain by private utility companies, public utilities, rural electric cooperatives, municipally owned utilities, or common carriers are fixed and determined by the particular use for which the property was acquired. Any expanded use of the property will require additional eminent domain proceedings to acquire the additional rights;

(10) Any easements that are acquired after the effective date of the bill and are no longer used for the original acquired purpose or have not been used by the easement holder for 10 continuous years will be deemed abandoned or vacated. Abandonment or vacation will result in the reversion of the easement to the owner of record, unless the owner waives the reversion in writing;

(11) An Office of Ombudsman will be established in the Office of the Governor to assist citizens seeking information regarding the condemnation process and procedures; and

(12) Any financial gain to the property owner arising from a condemnation action will be deducted from the taxpayer's federal adjusted gross income.