

FISCAL NOTE

SB 2413 - HB 2483

January 17, 2006

SUMMARY OF BILL: Defines the term public use, as it applies to the power of eminent domain, to stipulate that if private property is taken through the use of such power it may not be done for the sole or primary purpose of improving tax revenue or for economic development. The bill further stipulates that condemned property may not be taken for the purpose of selling, leasing or otherwise transferring ownership to a private entity for the sole or primary purpose of improving tax revenue or to promote economic development. Proof of the cause of action for such takings would reside with the entity exercising the power of eminent domain. Takings would not be final until the appropriate court renders a decision on the action.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – Changes in property tax collections could occur as a result of this bill. Currently, if an entity acquires property through the power of eminent domain, there may be a change in tax status as the property changes from a taxable parcel to a tax exempt parcel. If the taken parcel is subsequently leased to a private entity, in-lieu of tax payments may be negotiated with the private entity. The amount of such payments can vary according to individually negotiated circumstances and may differ from the amount of tax collected prior to the government taking. Under this bill, such transactions would no longer take place. The property tax revenue impact cannot reasonably be quantified due to the unique circumstances of each taking.

Assumptions:

- Industrial development boards are authorized to use the power of eminent domain to take property. To date, staff has been unable to find any instance of industrial development boards utilizing this power.
- The use of the power of eminent domain for traditional purposes such as the construction of roads would be a permissible public use, rather than promotion of economic development, and would therefore continue.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director