

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1167 – SB 1184

May 8, 2017

SUMMARY OF ORIGINAL BILL: Prohibits a local government from condemning private land to be used for an industrial park and citing the justification for the condemnation as being for public use unless certain circumstances are met. Requires fees and costs to be awarded by the court to property owners at certain condemnation proceedings. Requires damages on property taken by eminent domain to be calculated and paid based on the highest and best use of the property.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Exceeds \$1,500,000/Highway Fund

Increase Local Expenditures – Exceeds \$5,000/Each Instance

Other Fiscal Impact – Due to multiple unknown factors, a precise determination of forgone local revenue cannot reasonably be determined.

SUMMARY OF AMENDMENTS (006244, 008368): Amendment 006244 deletes and rewrites the bill such that the substantive changes are as follows: (1) removes the prohibition placed on local government for condemning private land to be used for an industrial park and instead requires the condemning local government to maintain ownership of such land for a period of at least ten years prior to selling it to a private party; (2) effectively removes any condemnation proceeding initiated necessary for a road, highway, bridge, or other structure, facility, or project used for public transportation from applicability of the original language; (3) requires fees and costs to be awarded by the court to property owners at certain condemnation proceedings; and (4) removes the requirement that damages for property taken by eminent domain be calculated and paid based on highest and best use of the property.

Amendment 008368 amends the language of amendment 006244 to effectively add condemnations of land being acquired for public utilities from applicability of the original language.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase Local Expenditures – Exceeds \$1,000/Each Instance/Permissive

Other Fiscal Impact – Due to multiple unknown factors, a precise determination of forgone local revenue cannot reasonably be determined.

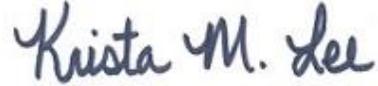
Assumptions for the bill as amended:

- The proposed language would require any local government condemning land for use as an industrial park to maintain ownership of such property for no less than ten years; at which time the local government may sell the property to a private party.
- Pursuant to Tenn. Code Ann. § 29-17-106, when a condemnation is abandoned by the condemner or the final judgement of the court is that the condemner cannot acquire the property through eminent domain, the court awards property owners reimbursement for reasonably attorney, appraisal, and engineering fees. In condemnation cases where the amount of damages awarded at trial exceeds the amount assessed originally by the condemner, no such additional fees are awarded to the property owner.
- The proposed language would require reasonably attorney, appraisal, and engineering fees to be awarded in all condemnation proceedings which were not initiated for the purpose of a public utility, road, highway, bridge, or other structure, facility, or project used for public transportation, except in cases when the amount of damages awarded at atrial exceeds the amount assessed originally by the condemner. In those instances only appraisal and engineering fees are awarded to the property owner.
- It is assumed that all condemnations which have been removed from applicability are condemnations which are currently conducted by the Tennessee Department of Transportation; therefore, because such condemnations are governed by current law, there will be no increase in state expenditures.
- Due to multiple unknown factors such as how many municipalities previously condemned land for use as industrial parks, the extent of industrial parks which will not be created for a period exceeding ten years due to the provisions of this legislation, and the extent of any property tax revenue which would have been collected from businesses installed at such industrial parks in the required ten year period, a precise amount of local revenue which will be forgone during that ten-year period cannot reasonably be determined.
- The proposed language applied to condemnation proceedings initiated on or after enactment as law; as such, any increase in local expenditures as a result of condemnation proceedings is considered a mandatory cost incurred as a result of a municipality initiating the permissive action of condemnation.
- It is unknown how many municipalities condemn private land which will not be used for a public utility, road, highway, bridge, or other structure, facility, or project used for public transportation, the extent of damages currently awarded to such private land owners by municipalities, the extent of additional attorney, appraisal, and engineering fees which will be paid under the provisions of the legislation. Due to these unknown

factors a precise increase in local expenditures cannot be determined; but is reasonably estimated to exceed \$1,000 each instance of condemnation.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jrh