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H.B. 63
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Cutrona and Stoltzfus

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SUMMARY

- Provides, generally, township, village, and city legislatures authority to veto the use of eminent domain if it is intended to acquire property for use as a recreational trail.
- Changes the time within which a property owner may object to the taking of property by eminent domain, generally, from within ten business days after receiving the legally required notice to any time before a court order allows the property to be taken by eminent domain, and through any subsequent appeals.
- Declares an emergency.

DETAILED ANALYSIS

Local eminent domain veto – recreational trails

Operation

The bill gives legislative authorities in municipal corporations (usually a village or city council) and boards of township trustees the ability to veto the use of eminent domain within their borders when property is being taken to provide a recreational trail. The bill defines “recreational trail” as a public trail that is used for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel.

Before a veto can be issued under the bill’s new provisions, the property owner must request one in writing. The request can be made, and a veto may be issued, any time before a court order allows the property to be taken by eminent domain, and through any subsequent appeals.

If the property involved is in both a township and a village or city, the property owner may request a veto from either the board of township trustees or the legislative authority of the village or city, or both, and either or both may issue an effective veto.¹

Notice to property owners

Under continuing law, when a public or private agency (certain private entities such as utilities have authority to take property through eminent domain), intends to use eminent domain to appropriate property, it must send the property owner a notice of its intent to acquire the property and a good faith offer to purchase it. The bill requires that the notice include information about the property owner's right to request a local veto.²

Exceptions

The bill's new veto provisions do not apply in any county with more than one probate judge, as established in the Revised Code. Currently, Cuyahoga County is the only Ohio county with more than one probate judge.³

Time to object to eminent domain taking, generally

Continuing law provides property owners the right to take objections to a taking to the taking agency by providing a written objection to the agency within ten days after receiving a legally required notice from the agency. If the taking agency is an unelected public agency, the owner may also object to the elected officials of the public agency or elected individual that appointed the unelected agency, and those elected officials may veto the appropriation. If the unelected public agency was appointed by more than one public agency or elected individual, a majority vote of the elected officials of the appointing public agencies or elected individuals is required to veto the appropriation. If the unelected public agency is a state agency or a state instrumentality such as a university, the Governor has veto authority.

The bill changes the time for objection to the agency, and any relevant elected officials, from ten business days after receiving the required notice to the same amount of time as a property owner has to request a veto under the bill's new provisions for recreational trails. That is, any time before a court order allows the property to be taken by eminent domain, and through any subsequent appeals.⁴

¹ R.C. 163.022(B) through (D).

² R.C. 163.041 and R.C. 163.04, not in the bill.

³ R.C. 163.022(B)(3) and R.C. 2101.021, not in the bill.

⁴ R.C. 163.022(A) (R.C. 163.021(E) under existing law) and 163.041.

Cumulative remedies

The bill also specifies that the right to request a veto from a taking agency or an elected official who is a member of, or has appointing authority for, an unelected agency under the bill's new remedies, is in addition to the remedies in existing law, not an alternative to them.⁵

HISTORY

Action	Date
Introduced	02-03-21

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⁵ R.C. 163.022(C).