

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bills 459 through 462 (as reported without amendment)

Senate Bill 463 (Substitute S-1 as reported)

Sponsor: Senator Mat J. Dunaskiss (S.B. 459 & S.B. 461)

Senator Leon Stille (S.B. 460)

Senator Bill Schuette (S.B. 462)

Senator Loren Bennett (S.B. 463)

Committee: Local, Urban and State Affairs

Date Completed: 11-5-97

RATIONALE

Under the United States and Michigan Constitutions, the government is prohibited from taking private property for a public use without providing the owner with just compensation. In Michigan, when property is acquired by an agency (a public body or a private entity authorized by law to condemn property), the agency must comply with the Uniform Condemnation Procedures Act. Essentially, the Act requires an agency to make a good faith offer in the amount it believes to be just compensation, and provides for a circuit court determination when the parties disagree on the purchase. Public Act 474 of 1996 amended the Act to address several areas where it was believed the process could be improved. Among other things, Public Act 474 allows an agency to apply for a variance, before or after acquisition, if acquiring a portion of a parcel would leave the remainder in nonconformity with a zoning ordinance. Some people believe that various zoning Acts also should reflect this change in procedure.

CONTENT

The bills would amend the Natural Resources and Environmental Protection Act (NREPA) and various zoning Acts to permit a condemning agency, when acquiring a portion of a parcel of property under the Uniform Condemnation Procedures Act, to seek a variance from certain zoning regulations.

(Under the Uniform Condemnation Procedures Act, "agency" means a public or private agency. "Private agency" means a person, partnership, association, corporation, or entity, other than a public agency, authorized by law to condemn

property. "Public agency" means a governmental unit, officer, or subdivision authorized by law to condemn property.)

Specifically, Senate Bill 459 would amend the NREPA to permit a local unit of government, a landowner, or an agency, acting under the Uniform Condemnation Procedures Act, to apply for a change in boundaries or permitted uses.

Currently, a local government must conform to the Township Zoning Act or the County Zoning Act as well as NREPA requirements when establishing a zoning ordinance. Under the bill, a local government also would have to conform to the variance requirements of those zoning Acts.

Senate Bills 460, 461, and 462 would amend the County Zoning Act, the Township Zoning Act, and the City and Village Zoning Act, respectively, to permit an agency to seek a variance from a county board of zoning appeals, a township zoning board of appeals, or a city or village board of appeals under the Uniform Condemnation Procedures Act.

Senate Bill 463 (S-1) would amend the Airport Zoning Act to permit an agency acting under the Uniform Condemnation Procedures Act to apply to the board of appeals for a variance from the zoning regulations adopted under the Airport Zoning Act.

MCL 324.30510 & 324.30512 (S.B. 459)
125.220 (S.B. 460)
125.290 (S.B. 461)
125.585 (S.B. 462)
259.454 (S.B. 463)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under Public Act 474 of 1996, if the acquisition of a portion of a parcel of property needed by an agency would leave the remainder of the parcel in nonconformity with a zoning ordinance, the agency, before or after acquisition, may apply for a zoning variance for the remainder of the parcel. The bills would amend the Natural Resources and Environmental Protection Act and various zoning Act to permit a condemning agency to seek a variance from certain zoning regulations in order to conform with these provisions of Public Act 474. For example, a condemning agency that acquired a parcel zoned for development as an office building could seek a variance for the portion of the parcel that the agency did not take under the Uniform Condemnation Procedures Act. Without the variance, the balance of the parcel perhaps could not be developed for its best use because it did not meet local zoning regulations, and the agency would have to compensate the owner for the property's loss in value. Traditionally, it was up to the property owner to seek a zoning variance, but an uncooperative owner could refuse to do so and, instead, try to get compensation for the nonconforming property. This amendment in Public Act 474 enables an agency to take steps to prevent avoidable expense, relieves the owner of having to seek a variance, and removes uncertainty over whether a variance will be granted.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.