



State of Connecticut
SENATE

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Senator Osten, Representative Miller, and members of the Planning and Development Committee,

I am Senator Joe Markley and I am testifying in favor of Senate Bill 881 AN ACT CONCERNING THE TAKING OF INTANGIBLE PERSONAL PROPERTY BY THE COMMISSIONER OF TRANSPORTATION.

This bill would limit what the Department of Transportation (DOT) can seize through eminent domain, by exempting intangible property. This is good legislation which protects the property rights of the citizens of Connecticut.

The Connecticut Department of Transportation (DOT) recently sequestered the operating rights (called "certificates of public convenience and necessity") of four private bus companies along the New Britain to Hartford corridor. In so doing, the department drastically expanded the definition of what it can seize through eminent domain to include "intangible property." This disturbingly broad interpretation of eminent domain takes us down a dangerous path, threatening our right to be secure in our possessions, tangible or intangible.

The bus companies rightly challenged the DOT in court, but the presiding judge referee ruled that the licenses to operate certain bus routes were "facilities"—since they facilitate doing business—and therefore subject to eminent domain. (Connecticut's statute says the state may use eminent domain to seize, "land, buildings, equipment, and facilities.")

Common sense suggests that in this case the word "facilities" in this context refers to tangible, physical property. If the license to operate a bus route can be a facility, what else can "facility" mean? Are all contracts facilities? Is any intellectual property—including a patent—technically speaking, a "facility" which can be seized via eminent domain?

This bill, S.B. 881, would do much to reverse a bad precedent set by the Hartford Superior Court's misguided ruling. Eminent domain is an extraordinary governmental power. Although it is sometimes necessary for the state to exercise it, it must be strictly constrained. I hope you will pass this bill out of committee, and strongly advocate its passage into law.

Thank you for your consideration of S.B. 881.