OLR Bill Analysis
sHB 5123

AN ACT PROHIBITING THE USE OF EMINENT DOMAIN FOR CERTAIN COMMERCIAL PURPOSES.

SUMMARY

This bill makes changes to the laws municipalities must follow when taking property through eminent domain for economic development purposes. The law authorizes takings to (1) eliminate blight and prepare an area for redevelopment (Chapter 130), (2) facilitate new commercial and industrial development (Chapter 132), and (3) help manufacturers and other key industries expand or relocate in Connecticut (Chapter 588l) (see BACKGROUND).

Existing law prohibits municipalities from taking property under any of these circumstances for the primary purpose of increasing local tax revenue. The bill further limits municipalities’ authority to take property for development purposes by prohibiting such takings for any purpose that produces income from the property for a private entity (i.e., a commercial purpose).

By law, when taking property, municipalities must, among other things, prepare a plan (redevelopment plan, project plan, or development plan, depending on the purpose of the taking) showing how they intend to develop the property they plan to take. The bill (1) requires municipalities to include in their plan that the taking is not for commercial purposes and (2) prohibits the plan’s approval if the deciding body (i.e., redevelopment agency or legislative body, as applicable) finds otherwise.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2019, and applicable to property acquired on or after that date, except the section on the approval of a municipality’s redevelopment plan is effective October 1, 2019.
PLAN CONTENT AND APPROVAL

Chapter 130 Redevelopment Plan

Under existing law, a Chapter 130 redevelopment plan for property taken by eminent domain must include the location and extent of the land uses proposed for and within the redevelopment area. The bill specifically prohibits any use that would produce income for a private entity from any such parcel acquired by eminent domain.

By law, the redevelopment plan must also include:

1. a description of the redevelopment area and specification of each parcel proposed to be acquired;
2. the location and extent of streets and other public utilities, facilities, and works within the area;
3. schedules showing displacement impact by the proposed improvement and the method of any temporary relocations;
4. zoning regulations in the area;
5. a description of how the area is deteriorated, deteriorating, substandard, or detrimental to the community’s safety, health, morals, or welfare; and
6. any other detail necessary to give the redevelopment agency adequate information.

Existing law and the bill do not require Chapter 130 plans to include a preliminary statement (described below) but prohibit redevelopment agencies from approving a redevelopment plan unless they make the findings listed below.

Chapter 132 Project Plan and Chapter 588l Development Plan

Existing law requires a Chapter 132 project plan and a Chapter 588l development plan to include, among other things, a preliminary statement describing how the town or agency will acquire the property and specific findings that:
1. the plan's public benefits outweigh any private benefits,

2. the property's existing use cannot be feasibly integrated into the project's overall development plan,

3. taking the property is reasonably necessary to successfully achieve the plan's objectives, and

4. the plan's primary purpose is not to increase local tax revenues.

Under the bill, such a preliminary statement must also include a finding that the development plan is not for any purpose that produces income from the property for a private entity.

BACKGROUND

Takings Plan Approval

The law establishes similar processes for taking property under Chapters 130, 132, and 588l. Among other things, municipalities must prepare a plan showing how they intend to develop the property they plan to take. The redevelopment agency’s governing board must approve Chapter 130 plans, while the municipalities’ legislative bodies approve Chapter 132 and 588l plans. A plan cannot be approved unless, after required notice has been met, (1) there has been a public hearing on the proposed taking and (2) the approving entity makes specific findings.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 15  Nay 6  (03/29/2019)