

SENATE BILL REPORT

SB 5078

As of January 25, 2011

Title: An act relating to conditions of threat to public health, safety, or welfare on real property.

Brief Description: Concerning a municipality's right to condemn real property due to a threat to public health, safety, or welfare.

Sponsors: Senators Shin, Swecker, Becker, Benton, Honeyford, Schoesler, Stevens, Hewitt, Carrell and Roach; by request of Attorney General.

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 1/20/11.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Staff: Karen Epps (786-7424)

Background: Under the Community Renewal Law, municipalities may determine whether areas are blighted, acquire property in blighted areas through purchase or eminent domain, and hold, improve, clear, or prepare blighted areas for redevelopment. A municipality may exercise its powers under the Community Renewal Law for several enumerated purposes, including in the interests of the public health, safety, morals, or welfare of the residents of the municipality, and to prevent the development and spread of blighted areas.

Before a municipality may exercise its authority under the Community Renewal Law, it must adopt an ordinance or resolution that finds that one or more blighted areas exist within the municipality and the rehabilitation or redevelopment of the areas is necessary in the interest of public health, safety, morals, or welfare of the residents of the municipality.

The municipality may acquire property for community renewal through eminent domain. Compensation for the property may not be increased by reason of any increase in the value of the property caused by the actual or proposed assembly, clearance, or reconstruction in the project area. Likewise, no allowance may be made for improvements to the property made after notice of the institution of condemnation proceedings. In a condemnation proceeding, evidence relevant to the unsanitary, unsafe, or substandard condition of the premises, or the unlawful use thereof, is admissible.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The municipality may acquire property for community renewal through eminent domain if the property poses an identifiable threat to public health, safety, or welfare by reason of unsanitary, unsafe, or substandard condition of the premises, or the property has been used unlawfully. The municipality must condemn the property for a public purpose.

Within 120 days of the adoption of the condemnation ordinance, the owner of the property may file an appeal in superior court to determine whether the property poses an identifiable threat to public health, safety, or welfare by reason of unsanitary, unsafe, or substandard condition of the premises, or the property has been used unlawfully or to give the owner a reasonable opportunity to address the issues. The municipality has the burden of showing that its findings to condemn the property were supported by substantial evidence at the time the ordinance was adopted. If the court determines that the condition of the property does not constitute a threat to public health, safety, or welfare, the court must enter an order that the property is not subject to condemnation.

Where the municipality meets its evidentiary burden of showing the property poses an identifiable threat to public health, safety, or welfare by reason of unsanitary, unsafe, or substandard condition of the premises, or the property has been used unlawfully, the court must document all the physical conditions of the property which contribute to the threat to public health, safety, or welfare. During the period of time granted by the court for the owner to remove any threat to public health, safety, or welfare, the action by the municipality is stayed. If the owner cannot correct the threat to public health, safety, or welfare within the time provided by the court, the municipality may move forward with the condemnation.

Appropriation: None.

Fiscal Note: Requested on January 13, 2011.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Municipalities have a right to use eminent domain to protect the public from danger or unsafe or unsanitary conditions of property and blight lets them do that. This bill provides that the municipality must use the property for a public project. Municipalities must prove and convince the court that the property is harmful, dangerous, and unsafe in the public interest. There is a public interest to address legitimate blight. Property owners have the right to appeal to court. This protects both the local government's interest in eliminating blight and the private property owner's interest by providing them with the opportunity to go in front of a judge and have the judge determine whether it is blight and to give the owner time to fix the problem. The Community Renewal Law represents the most significant vehicle for eminent domain abuse. This bill closes this loophole, while still preserving the ability of municipalities to use the Community Renewal Law to address blight.

Persons Testifying: PRO: Senator Shin, prime sponsor; Tim Ford, Attorney General's Office; Dan Heid, City of Auburn; John Woodring, Rental Housing Association, Manufactured Housing Communities of Washington; Randy Bannecker, Washington

Association of Realtors; William Maurer, Institute of Justice; Craig Johnson, Ken Miller, Denise Gloster, citizens; Pat Muraicami, Many Cultures, One Message; Dan Wood, Washington Farm Bureau.