
Local Government Committee

ESB 6379

Brief Description: Requiring a public hearing before a local government may remove, vacate, or extinguish certain covenants from land it owns.

Sponsors: Senators Fain, Keiser, Takko and Short.

<p style="text-align: center;">Brief Summary of Engrossed Bill</p> <ul style="list-style-type: none">• Requires a local government to hold a public hearing when it proposes to remove, vacate, or extinguish a recorded restrictive covenant, or any known covenant from an unrecorded deed, from property it owns.

Hearing Date: 2/21/18

Staff: Cassie Jones (786-7303).

Background:

Generally, the owners of real property have the right to use property as they choose. Sometimes, the property may be subject to certain encumbrances, such as easements, covenants, or other restrictions. A covenant is an agreement between two parties about what can or cannot be done to or on the property. Typically, a restrictive covenant is an agreement between parties to refrain from doing something on or to the land. A restrictive covenant, which affects title to the land, may be recorded with the county auditor.

Counties, cities, towns, and municipal corporations may hold or acquire a development right, easement, covenant, restriction, or other right or interest in land. These restrictions on the real property may serve to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land. This right or interest is classified as real property.

A city, town, municipal corporation, or county must hold a public hearing prior to removing, vacating, or extinguishing a restrictive covenant from property it owns. The public hearing must

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.

provide opportunity for individuals to testify regarding the proposed action. The city, town, municipal corporation, or county must provide notice of the hearing at least 10 days prior to the hearing at its usual place of business and in a press release. Notice must also be posted on its website if it is updated for any reason prior to the hearing date. The notice must identify the property and provide a brief explanation of the restrictive covenant to be removed.

Summary of Bill:

The requirement that a city, town, municipal corporation, or county hold a public hearing and provide notice of the hearing on the removal of a restrictive covenant from property it owns is limited to apply only to recorded restrictive covenants and any known covenant from an unrecorded deed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.