



February 10, 2024

SUMMARY OF BILL: Specifies that a condemner bears the burden of proving by a preponderance of evidence certain facts regarding the condemnation of a property. Authorizes property owners whose property is being condemned to have a court determine whether the taking is necessary to accomplish the public use.

Provides that the act does not apply to condemnation actions for projects or uses regarding streets, highways, roads, bridges, transportation, utilities, utility water, public water projects, sewer, and electricity.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 29-17-104, in any condemnation proceedings:
 - The condemner must file a petition to institute condemnation proceedings;
 - The owner of the property has 30 days to challenge the petition;
 - If the petition is not challenged, the condemner may take possession of the property; and
 - If the property owner challenges the petition within 30 days, a court determines whether the condemner has the right to take the property.
- The proposed language requires the condemner to prove by a preponderance of the evidence that:
 - The land, real estate, premises, or other property is required for a public use;
 - The condemner has a plan with a reasonable schedule of completion after the condemner takes possession;
 - The condemner has access to funding to complete the public use; and
 - The public use cannot be accomplished by using or acquiring other property with the consent of the owner of the other property without an unreasonable increase in cost or delay.
- Given that the proposed legislation does not apply to public works projects, it is assumed that the number of eminent domain proceedings in which this legislation would apply is not significant.

- Requiring local governments to prove certain facts prior to condemning properties may delay eminent domain proceedings, but is not expected to have a significant impact on local expenditures.
- If a property owner challenges a taking in court, there may be an increase in local government expenditures relative to court costs; however, any such increase is estimated to be not significant.
- Any increase in caseloads will be absorbed by the courts; any fiscal impact to the court system is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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