



## Fiscal Estimate Narratives

DOR 3/14/2011

LRB Number	11-0275/2	Introduction Number	SB-083	Estimate Type	Original
<b>Description</b> Various changes to the eminent domain laws					

### Assumptions Used in Arriving at Fiscal Estimate

This bill makes several law changes regarding the use of condemnation, notably with respect to property that is deemed to be blighted. Although condemnation authority is granted under current law to a variety of governmental entities (including certain state agencies), the following discussion is limited to those changes that affect local governmental entities.

Under current law, any town, village, city, county, school district, housing authority, redevelopment authority, or community development authority may acquire property (both real and related personal property) by condemnation for any lawful purpose. Under the bill, these entities could acquire property by condemnation for only the following public uses: (a) the possession, occupation, or ownership for the enjoyment of the purchaser or the general public, (b) the establishment or operation of a public utility, and (c) the elimination of blight.

Under current law, "blighted" property may be condemned and sold to a private entity. In general, current law defines "blighted" property to mean any property that, by reason of abandonment; dilapidation; deterioration; age or obsolescence; inadequate provisions for ventilation, light, air, or sanitation; high population density or overcrowding; faulty lot layout in relation to size, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of improvements; or the presence of conditions that endanger life or property; can be deemed detrimental to public health, safety, or welfare. In addition, one of the two following conditions must be met for dwelling units: (a) the crime rate in the area in, on, or adjacent to the property is at least three times the crime rate in the rest of the municipality where the property is located, or (b) the property is not occupied by the owner, his or her spouse, or an individual related by blood, marriage, or adoption within the fourth degree of kinship.

Under the bill, additional conditions must also be met before a property can be deemed "blighted": (a) the property is not zoned for or used for agricultural purposes; (b) the property has been cited for one or more violations of applicable building codes involving the roof and roof framing elements; support walls, beams, and headers; the foundation, footings, and subgrade conditions; light and ventilation; fire protection; public utilities; flooring; or walls, insulation, and exterior envelope; (c) the code violations have not been remedied despite the issuance of at least 2 notices to do so, and (d) the cost remedying the violations would exceed one-half of the value of the property (excluding land).

Under current law, a town, village, city, and certain housing authorities, redevelopment authorities, and community development authorities can invoke a special procedure for the immediate condemnation of "blighted" property. Under the bill, the statute permitting such condemnations is repealed.

Under current law, when a governmental entity wishes to condemn a property, the laws are generally construed liberally in favor of the condemnation. Under the bill, the laws are to be more strictly construed. For example, under the bill, if a governmental entity wishes to condemn a property for the purpose of eliminating blight, and if the property owner challenges the condemnation in court, the governmental entity must prove, by a preponderance of the evidence, that the property is blighted.

The bill may increase legal and administrative costs regarding certain condemnations, and could slow down or stop certain redevelopment projects involving "blighted" property. The Department of Revenue (DOR) has no administrative role regarding local government's property condemnations. It is therefore not possible for DOR to estimate the increase in local costs that this bill could engender or the degree to which the bill would hinder development or redevelopment plans.

### Long-Range Fiscal Implications