

SESSION OF 2004

## **SUPPLEMENTAL NOTE ON SENATE BILL NO. 547**

As Amended by Senate Committee of the Whole

### **Brief\***

SB 547 amends the Eminent Domain Procedure Act to provide that the taking of private property for the purpose of selling, leasing or transferring the property to any private entity to be used by the private entity for industrial or economic development shall not constitute public use. The bill provides that it shall be *prima facie* evidence that the purpose of a taking was industrial or economic development if the sale, lease or transfer resulted in commercial or economic benefit to the private entity.

No private property shall be taken through the exercise of the right of eminent domain prior to a showing stated in the condemnation petition that the condemner has met with all required state and federal permitting agencies and has a good faith belief that all permits necessary to use or develop the property will be obtained. Any private property's taking or appropriation for industrial or economic development may be exempted from the limitations herein upon specific approval by legislative enactment that specifies the occasions, modes, conditions, and agencies for such private property's taking or appropriation.

### **Background**

The bill was supported by Senators Tyson, Pugh and others, and by representatives of the General Building Contractors, a professor from the University of Kansas School of Business, a Topeka business owner whose land was condemned and transferred to the Target Corporation, the Kansas Farm Bureau, the Kansas Livestock Association, and the Kansas Chapter of the Sierra Club. Proponents said the public use doctrine had been blurred to the point that nearly anything a legislative body declares to be a public use will be upheld by the courts.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Opponents included representatives of the League of Kansas Municipalities, the Kansas Association of Counties, the Kansas Department of Transportation, the Blue Valley School District, the Unified Government of Kansas City/Wyandotte County, and the Shawnee County Counselor. Written testimony against the bill was submitted by the Lenexa Chamber of Commerce, the City of Overland Park, the Kansas Department of Commerce, the Olathe School District, the City of Lenexa, and the State Association of Watershed Districts. Opponents said the bill would significantly restrict economic development efforts and would have other negative consequences.