

SESSION OF 2006

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 493**

As Amended by Senate Committee on  
Commerce

**Brief\***

SB 493, as amended, would establish a new process and limit the use of eminent domain for economic development purposes. A local government would be required to do the following prior to taking property by eminent domain for economic development purposes:

- The bill would require that the local government prepare an economic development project plan that specifies property it plans to acquire for economic development purposes. The plan would be required to detail how the proposed projects would benefit the community.
- The bill would require a public hearing on the plan and approval of a two thirds majority of the governing body.
- The bill would require a two thirds majority vote for authorized use of eminent domain for economic development purposes.
- The bill would require that eminent domain be used for economic development purposes only if the city or developer is unable to acquire the property after "good faith negotiations" had failed.
- The bill would require that a court would determine whether the decision to take the property was unreasonable, arbitrary or capricious, or made fraudulently or in bad faith. The court would be required to assign the case for hearing at the earliest practicable date.
- The bill would limit the use of eminent domain for economic development purposes to state, city or county governments.
- The bill would limit the approval process for any eminent domain project for economic development to three years.

---

\*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>

If property is taken by eminent domain, the bill would require that the property owner receive compensation based on how long the property has been owned as follows:

- Property owners who have owned the property for less than five years would receive 125.0 percent of fair market value;
- Property owners who have owned the property at least five but less than ten years would receive 150.0 percent of fair market value;
- Property owners who have owned the property at least ten but less than fifteen years would receive 175.0 percent of fair market value; and
- Property owners who have owned the property for fifteen or more years would receive 200.0 percent of fair market value.

## **Background**

Appearing as proponents for the bill were Senator Jordan and representatives of the Kansas League of Municipalities, Lenexa Chamber of Commerce, Kansas Association of Relators, City of Lenexa and Topeka Chamber of Commerce. Appearing as opponents were representatives of the Kansas Livestock Association and Kansas Farm Bureau. The Kansas Farm Bureau's significant objection to the bill is that it creates a presumption that eminent domain used for economic development is an acceptable use of the power in Kansas.

The Senate Committee on Commerce amended the bill by adding the following conditions:

- The court would be required to assign the case for hearing at the earliest practicable date.
- The bill would limit the use of eminent domain for economic development purposes to state, city or county governments.
- The bill would limit the approval process for any eminent domain project for economic development to three years.

The fiscal note indicates that the Kansas Association of Counties and the League of Kansas Municipalities would impose higher costs and additional requirements for local governments to acquire property; however, it is unknown to what extent these higher costs would reduce or eliminate future economic development projects. These organizations indicate the act would require local governments to prepare an economic development project plan; however, they estimate this requirement would have a negligible fiscal effect.