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Bill Analysis
Legislative Service Commission

H.B. 426

124th General Assembly
(As Introduced)

Reps. Young, Brinkman, Britton, Carey, Carmichael, DeWine, Fessler, Flowers, Hagan, Lendrum, Schaffer, Schmidt, Seaver, Webster, Willamowski

BILL SUMMARY

- Requires acquiring state and political subdivision agencies to make every reasonable effort to provide a copy of an appraisal to the owner of real property appraised at more than \$10,000, and requires those agencies to update or obtain new appraisals under certain circumstances.
- Specifies that an acquiring state or political subdivision agency's acquisition of property must be for a clearly defined public purpose that will be achieved in a defined and reasonable period of time.
- Makes other changes in the acquisition of property standards of the Displaced Persons Law.

CONTENT AND OPERATION

Clearly defined public purpose for acquiring real property

The current Displaced Persons Law, which is a body of law distinct from, but sometimes implicated by eminent domain takings under, the Appropriation of Property Law (secs. 163.01 to 163.22--not in the bill), establishes various standards to *guide* "to the greatest extent practicable" the head of an acquiring agency (see **COMMENT**) when acquiring real property (sec. 163.59). The bill, instead of requiring acquiring agency heads to be guided by the standards, requires them to "do" the tasks specified in the standards or "ensure an acquisition of real property satisfies" the standards. It also adds to the existing standards several requirements, one of which is a requirement that the acquisition of real property be for a clearly defined public purpose that is to be achieved in a defined and reasonable period of time (sec. 163.59(B)).

Copy of appraisal to owner when property value exceeds \$10,000

One of the standards for acquiring real property under the current Displaced Persons Law is that the property generally must be appraised before negotiations to acquire it begin. Also, under this standard, the property owner or the owner's designated representative currently must be given "an opportunity" to accompany the appraiser during his or her inspection of the property. The bill requires (1) that that opportunity be a "reasonable" opportunity to accompany the appraiser and (2) that, if the appraisal values the property *at more than \$10,000*, the acquiring agency head must make every reasonable effort to provide a copy of the appraisal to the owner. (Sec. 163.59(C).)

Offer for property to be no less than full amount established by acquiring agency

Under another standard of the current Displaced Persons Law, an acquiring agency head, before beginning negotiations to acquire real property, must establish an amount the head believes to be just compensation for the property and must make a prompt offer to acquire the property for the full amount so established. The bill instead requires that this offer be for *no less than* that full amount. As under current law, that full amount cannot be less than the acquiring agency's approved appraisal of the property's fair market value. (Sec. 163.59(D).)

Owner's consideration of offer and requirement for new or updated appraisal

The bill adds another standard to the Displaced Persons Law which requires that the owner of real property be given a reasonable opportunity to (1) consider the offer of the acquiring agency for the property, (2) present material that the owner believes is relevant to determining its fair market value, and (3) suggest modification in the proposed terms and conditions of its acquisition. The acquiring agency must consider the owner's presentation and suggestions under this proposed standard. (Sec. 163.59(D).)

Under another new and interrelated standard in the bill, if the information presented by an owner, or a material change in the character or condition of real property being acquired, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the property's appraisal, an acquiring agency head must have the appraisal updated or obtain a new appraisal. Further, under this new standard, if updated appraisal information or a new appraisal indicates that a change in the acquisition offer is warranted, the acquiring agency head must promptly reestablish the amount of the just compensation for the property and offer that amount to the owner in writing. (Sec. 163.59(E).)

Finalization of acquisition of property before removal notice is issued

Under another standard of the current Displaced Persons Law, the construction or development of a public improvement must be scheduled so that no person who lawfully occupies real property is required to move from a dwelling, or to move a business or farm operation, without at least 90 days' written notice from the acquiring agency head of the date by which the move must occur. The bill retains that standard and also requires as part of it that, whenever possible, the acquiring agency head make every reasonable effort to finalize the property's acquisition before this notice is provided. (Sec. 163.59(G).)

COMMENT

The current Displaced Persons Law defines an "acquiring agency" to include (1) a *state agency* that is authorized to acquire property by eminent domain *under state law* and (2) a state agency or person without that authority, apparently to the extent it is provided with eminent domain power *by rule* of the head of a lead agency (sec. 163.51(J)--not in the bill). That current law further defines a "state agency" as (1) any department, agency, or instrumentality of a state or of a political subdivision of a state, (2) any department, agency, or instrumentality of two or more states or of two or more political subdivisions of a state or states, (3) any community redevelopment corporation organized under Ohio law, or (4) any person authorized to acquire property by eminent domain under state law (sec. 163.51(A)--not in the bill).

HISTORY

ACTION	DATE	JOURNAL ENTRY
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