



H.B. 449

124th General Assembly
(As Introduced)

Reps. Lendrum, Schmidt, Brinkman, Damschroder, Carmichael, Fessler

BILL SUMMARY

- Eliminates the statutory right of the appointed boards of park commissioners of metropolitan park districts, municipal corporations, and township park districts to acquire property by eminent domain for park purposes.

CONTENT AND OPERATION

The bill eliminates the current power that township park districts and metropolitan park districts (also referred to as county park districts) have to acquire property by eminent domain (i.e., to "appropriate" property), and removes certain *statutory language* that provides eminent domain power to certain boards for municipal park purposes (secs. 511.23(B), 511.231, 511.24, 755.08, and 1545.11). (See **COMMENT**.) Those park districts and municipal parks that follow statutory provisions are governed by an *appointed* board of park commissioners. Under continuing law, a board of park commissioners can still acquire property by other currently permissible means, such as a direct purchase of property.

COMMENT

1. Under the "home rule" provisions of Section 3 of Article XVIII of the Ohio Constitution, municipal corporations have the power of eminent domain as part of their powers of local self-government. *State, ex rel. Bruestle v. Rich* (1953), 159 Ohio St. 13. However, this power is limited to the geographical limits of a municipal corporation. *Britt v. Columbus* (1974), 38 Ohio St.2d 1. Thus, statutory authority is necessary to exercise *extraterritorial* eminent domain power in relation to municipal parks.

2. The current statutory eminent domain power granted to the board of park commissioners of a municipal corporation in section 755.08 is both territorial

and extraterritorial in scope, but an exercise of the extraterritorial power is permissible only as long as the territory is *contiguous* to the municipal corporation. See *Cincinnati v. Ziegler* (1914), 16 Ohio N.P.N.S. 169. While the bill removes a board of park commissioners' statutory authority in section 755.08 to exercise eminent domain power for municipal park purposes, the associated municipal corporation still would possess eminent domain authority under its home rule powers within, but not outside, its borders to provide for parks.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-05-01	pp. 1174-1175

h0449-i.124/kl