

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 509 (as enrolled)
Senate Bills 515 through 518 (as enrolled)
Sponsor: Senator Walter H. North (S.B. 509)
Senator Mat J. Dunaskiss (S.B. 515)
Senator Bill Bullard, Jr. (S.B. 516 & 517)
Senator Shirley Johnson (S.B. 518)
Senate Committee: Local, Urban and State Affairs
House Committee: Local Government and Urban Policy

PUBLIC ACT 16 of 1999
PUBLIC ACTS 17-20 of 1999

Date Completed: 4-18-00

RATIONALE

Under the United States and Michigan Constitutions, the government is prohibited from taking private property for a public use without providing the owner with just compensation. In Michigan, when property is acquired by an agency (a public body or a private entity authorized by law to condemn property), the agency must comply with the Uniform Condemnation Procedures Act. Essentially, the Act requires an agency to make a good faith offer in the amount it believes to be just compensation, and provides for a circuit court determination when the parties disagree on the purchase. In recent years, problems apparently arose when property owners sued governmental agencies to receive just compensation for land that lost value or utility when it became nonconforming as the result of the acquisition of other parcels. Public Act 474 of 1996 amended the Act to address these situations as well as several areas in which people believed the process could be improved. Among other things, Public Act 474 amended Section 4 of the Act to allow an agency to apply for a variance, before or after acquisition, if acquiring a portion of a parcel would leave the remainder in nonconformity with a zoning ordinance. It was suggested that various zoning laws also should reflect this change in procedure.

CONTENT

The bills amended the Natural Resources and Environmental Protection Act (NREPA) and various zoning Acts to permit a condemning agency, when acquiring a portion of a parcel of property under Section 4 of the Uniform Condemnation Procedures Act, to seek a variance from certain zoning regulations.

Senate Bill 509 amended the Airport Zoning Act to provide that a variance from an airport zoning regulation may be applied for and granted pursuant

to the Act and Section 4 of the Uniform Condemnation Procedures Act.

Senate Bill 515 amended Part 305 (Natural Rivers) of the Natural Resources and Environmental Protection Act to provide that, in establishing a zoning ordinance, a local unit of government must conform to the Township Zoning Act or the County Zoning Act, including, but not limited to, the variance provisions of those Acts. Currently, the NREPA requires a local unit to conform to those Acts in establishing a zoning ordinance.

The NREPA also requires the Department of Natural Resources to promulgate a zoning rule to implement Part 305. The bill specifies that a variance from the zoning rule may be applied for and granted pursuant to Section 4 of the Uniform Condemnation Procedures Act.

Senate Bills 516, 517, and 518 amended the County Zoning Act, the Township Zoning Act, and the City and Village Zoning Act, respectively, to provide that a variance from a county, a township, or a city or village ordinance may be applied for and granted pursuant to Section 4 of the Uniform Condemnation Procedures Act.

MCL 259.454 (S.B. 509)
324.30510 & 324.30512 (S. B. 515)
125.220 (S.B. 516)
125.290 (S.B. 517)
125.585 (S.B. 518)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under Public Act 474 of 1996, if the acquisition of a portion of a parcel of property needed by an agency would leave the remainder of the parcel in nonconformity with a zoning ordinance, the agency, before or after acquisition, may apply for a zoning variance for the remainder of the parcel. The bills amended the Natural Resources and Environmental Protection Act and various zoning Acts to permit a condemning agency to seek a variance from certain zoning regulations in order to conform with these provisions of Public Act 474. For example, a condemning agency that acquires a parcel zoned for development as an office building may seek a variance for the portion of the parcel that the agency did not take under the Uniform Condemnation Procedures Act. Without the variance, the balance of the parcel perhaps could not be developed for its best use because it does not meet local zoning regulations, and the agency would have to compensate the owner for the property's loss in value. Traditionally, it was up to the property owner to seek a zoning variance, but an uncooperative owner could refuse to do so and, instead, try to get compensation for the nonconforming property. This amendment in Public Act 474 enables an agency to take steps to prevent avoidable expense, relieves the owner of having to seek a variance, and removes uncertainty over whether a variance will be granted.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bills will have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

A9900\509ea

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.