



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

**BILL ANALYSIS**

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

Senate Bill 693 (Substitute S-4 as reported by the Committee of the Whole)  
Sponsor: Senator Cameron S. Brown  
Committee: Transportation

**CONTENT**

The bill would amend Public Act 149 of 1911, which regulates the acquisition of property by State agencies and public corporations, to prohibit the taking of private property for transfer to a private entity unless the proposed use of the land were "invested with public attributes sufficient to fairly deem the entity's activity governmental by one or more of the following":

- "A public necessity of the extreme sort exists that requires collective action to acquire land for instrumentalities of commerce...whose very existence depends on the use of land that can be assembled only through the coordination that central government alone is capable of achieving."
- The property or its use would remain subject to public oversight and accountability after the transfer, and would be devoted to public use, independent from the will of the entity taking it.
- The property was selected on facts of independent public significance or concern, including blight, rather than the private interests of the entity to which the property eventually would be transferred.

Under the bill, "public use" would not include the taking of private property for the purpose of transfer to a private entity for either general economic development or the enhancement of tax revenue.

In a condemnation action, the burden of proof would be on the condemning authority to demonstrate, by the preponderance of the evidence, that the taking was for a public use. If the action involved a taking for the eradication of blight, however, the condemning authority would have to demonstrate, by clear and convincing evidence, that the taking was for a public use.

The bill specifies that a taking of private property for public use would not include a taking for a public use that was a pretext to confer a private benefit on a particular private entity.

The bill provides that any existing right, grant, or benefit afforded to property owners as of November 1, 2005, would not be abrogated or impaired by the bill.

The bill would take effect on January 1, 2006.

MCL 213.23

Legislative Analyst: Julie Koval

**FISCAL IMPACT**

The impact that this bill would have on the cost of future land acquisitions by State agencies and public corporations is not determinable.

Date Completed: 11-8-05

Fiscal Analyst: Bill Bowerman