

## **BILL ANALYSIS**

H.B. 417  
By: Callegari  
Land & Resource Management  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

State law provides that certain governmental entities may exercise the right of eminent domain to cure the problems of urban slum and blight. The statutory definitions for slum and blighted areas are inappropriately broad and imprecise, and conducive to subjective interpretations where any material defect on a property may render it eligible for condemnation. Currently condemning entities are under no obligation to provide relocation assistance, or to ensure that affected property owners are made whole. Condemned property owners may be forced to shoulder their own relocation costs when displaced, and receive fair market compensation that fails to ensure the maintenance of their standard of living before they surrendered their property.

H.B. 417 makes various changes to certain laws regarding slum and blight in this state, among which are to redefine "blighted area" to require that a property meet certain specific conditions before it is eligible for condemnation, to provide for compensation to property owners of condemned property for relocation to a property of a comparable standard of living, and to clarify that property within tax increment reinvestment zones cannot be condemned for economic development purposes.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 417 amends the Local Government Code to repeal the definition of "slum area", to remove the current definition of "blighted area," and to redefine "blighted area" to mean a tract or unit of property that presents four or more of the following conditions for at least one year after the date on which notice of the conditions is provided to the property owner:

- the property contains uninhabitable, unsafe, or abandoned structures;
- the property has inadequate provisions for sanitation;
- there exists on the property an imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe declared to be a disaster or certified as a disaster for federal assistance under provisions in the Government Code;
- the property has been identified by the United States Environmental Protection Agency as a superfund site under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or as environmentally contaminated to an extent that the property requires remedial investigation or a feasibility study;
- the property has been the location of substantiated and repeated illegal activity of which the property owner knew or should have known;
- the maintenance of the property is below county or municipal standards;
- the property is abandoned and contains a structure that is not fit for its intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the structure has been disconnected, destroyed, removed, or rendered ineffective; or
- the property presents an economic liability to the immediate area because of deteriorating structures or hazardous conditions.

H.B. 417 redefines "rehabilitation," "urban renewal activities," "urban renewal area," and "urban renewal project" to conform with the repeal of the definition of "slum area".

H.B. 417 requires the governing body of a municipality, before exercising its power to adopt a community development program under other provisions of the Local Government Code, to identify each unit of real property in the municipality that has the characteristics of blight or is a federally assisted new community in the municipality. The bill requires the governing body to determine that each unit of real property included in a resolution that finds that a blighted area exists in the municipality for purposes relating to urban renewal which is adopted by the governing body and approved by the municipality's voters has the characteristics of blight. The bill requires that a resolution ordering the election and the notice of the election include a legal description of each unit of real property included in the resolution and a statement that each unit of property has the characteristics of blight.

H.B. 417 prohibits an area from being considered a blighted area under the bill's definition of "blighted area" unless the municipality has given notice in writing to the property owner by first class mail and the property owner has failed to take reasonable measures to remedy the condition. The bill sets out the requirements of notice. The bill prohibits an area from being considered a blighted area solely for an aesthetic reason. The bill provides that the determination of a municipality that a unit of real property has the characteristics of blight is valid for two years and that after the two-year period the municipality may make a new determination and redesignate the unit of real property as a blighted area for another two-year period. The bill authorizes a municipality to remove a determination of blight if it finds that the property owner has remedied the condition that was the basis for the determination. The bill authorizes two or more contiguous units of real property, owned by the same person, and determined by a municipality to have the characteristics of blight, to be treated as one unit of property.

H.B. 417 amends the Tax Code to remove certain statutory authorization for a municipality or county to acquire real property by condemnation or other means to implement project plans and sell that property in the manner it considers advisable, and instead retains language allowing the entity to purchase such property for such purposes. The bill includes an undeveloped area as an area in which real property or other property may be acquired for certain public purposes. The bill authorizes a municipality or county to acquire by condemnation any interest, including fee simple interest, in real property that is a blighted area and necessary for the reinvestment zone that is consistent with the project plan for the zone. The bill authorizes a municipality or county to acquire by condemnation an interest in real property only if the taking is in accordance with provisions of the Government Code relating to limitations on the use of eminent domain. The bill removes a provision that establishes that the implementation of a project plan to alleviate a condition under which an area may be designated a reinvestment zone and to promote development or redevelopment of a reinvestment zone serves a public purpose. The bill makes conforming changes.

H.B. 417 amends the Property Code to expand one of the types of evidence special commissioners must admit to form the basis for assessing actual damages to a property owner from a condemnation to include as an injury to a property owner the financial damages associated with the cost of relocating from the condemned property, if the property was habitable, to another property that allows the property owner to have a standard of living comparable to the property owner's standard of living before the condemnation of the property. The bill requires the special commissioners to include the property owner's financial damages in an estimate of injury or benefit that is peculiar to the property owner. The bill requires, rather than authorizes, a department, agency, instrumentality, or political subdivision of the state to provide a relocation advisory service to certain displaced parties that is compatible with the Federal Uniform Relocation Assistance Advisory Program.

H.B. 417 amends the Government Code to provide that the exception to the prohibition that an entity may not take private property through the use of eminent domain for economic development purposes applies if the economic development results from certain activities to eliminate existing affirmative harm on society, instead of the economic development being a secondary purpose resulting from such harm.

H.B. 417 repeals the following sections of the Local Government Code:

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- Section 374.003(19), a provision defining "slum area"; and
- Section 374.016, a provision regarding slum clearance.

H. B. 417 repeals Section 311.008(c), Tax Code, a provision in the Tax Increment Financing Act that provides that the authority of a municipality or county to exercise the power of eminent domain to acquire real property prevails over any law or municipal charter to the contrary, and makes conforming changes.

**EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.