



January 13, 2012

SENATE BILL No. 54

DIGEST OF SB 54 (Updated January 10, 2012 12:48 pm - DI 106)

Citations Affected: IC 32-24.

Synopsis: State university use of eminent domain. Provides that before a state supported college or university may acquire property that contains an operating business through the use of eminent domain, the college or university must submit its plan to obtain the property to the state budget committee and state budget agency. Provides that, after review by the state budget committee, the state budget agency must approve or disapprove of the plan. Specifies that if the state budget agency approves the plan, the state supported college or university shall pay the owner of the business the capitalized value of the estimated future earnings of the business after the date the college or university would acquire the property, in addition to paying the owner of the property: (1) the fair market value of property; (2) the fair market value of all improvements pertaining to the property; and (3) any other damages to which the owner of the property is entitled. Sets forth certain other procedures that must be followed if a state supported college or university attempts to acquire property that contains an operating business through the use of eminent domain.

Effective: July 1, 2012.

Eckerty, Head

January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 12, 2012, amended, reported favorably — Do Pass; pursuant to Senate Rule 68(b), reassigned to Committee on Appropriations.

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January 13, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 54

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-24-1-0.7 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 0.7. As used in this chapter, "business" means any**
4 **lawful activity conducted primarily for the:**
5 (1) purchase, sale, lease, or rental of personal or real
6 property;
7 (2) manufacture, processing, or marketing of products,
8 commodities, or any other personal property; or
9 (3) sale of services to the public.
10 SECTION 2. IC 32-24-1-2.5 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2012]: **Sec. 2.5. (a) As used in this chapter, "state educational**
13 **institution" means any university, college, or other educational**
14 **institution:**
15 (1) in Indiana;
16 (2) that provides programs of:
17 (A) collegiate or university education; or

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- 1 **(B) other postsecondary education; and**
 2 **(3) that is supported in whole or in part by appropriations**
 3 **made by the general assembly.**
 4 **(b) The term includes the following:**
 5 **(1) Ball State University.**
 6 **(2) Indiana State University.**
 7 **(3) Indiana University.**
 8 **(4) Ivy Tech Community College.**
 9 **(5) Purdue University.**
 10 **(6) University of Southern Indiana.**
 11 **(7) Vincennes University.**
 12 SECTION 3. IC 32-24-1-3.5 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2012]: **Sec. 3.5. (a) If a state educational institution wants to**
 15 **acquire property that contains an operating business through the**
 16 **use of eminent domain:**
 17 **(1) the state educational institution must submit the state**
 18 **educational institution's plan to obtain the property through**
 19 **the use of eminent domain, which must include the state**
 20 **educational institution's intended use for the property, to the:**
 21 **(A) budget committee; and**
 22 **(B) budget agency;**
 23 **(2) after the plan described in subdivision (1) is reviewed by**
 24 **the budget committee, the budget agency must approve or**
 25 **disapprove the plan; and**
 26 **(3) if the budget agency approves the plan under subdivision**
 27 **(2), in addition to paying the owner of the property:**
 28 **(A) the fair market value of the property;**
 29 **(B) the fair market value of all improvements pertaining to**
 30 **the property; and**
 31 **(C) any other damages to which the owner of the property**
 32 **is entitled;**
 33 **the state educational institution must pay the owner of the**
 34 **business the capitalized value of the estimated future earnings**
 35 **of the business after the date the state educational institution**
 36 **would acquire the property;**
 37 **before the state educational institution may acquire the property.**
 38 **(b) For purposes of this chapter, if a state educational institution**
 39 **attempts to acquire property that contains an operating business**
 40 **through the use of eminent domain as described in subsection (a),**
 41 **the following apply to the acquisition attempt:**
 42 **(1) If the owner of the property is not the owner of the**



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business:

(A) the state educational institution must submit a copy of any documents the state educational institution is required to submit to the owner of the property to the owner of the business; and

(B) the owner of the business must be named as a defendant in any action brought in which the owner of the property is named as a defendant.

(2) The state educational institution must include:

(A) the capitalized value of the estimated future income of the business after the date the state educational institution would acquire the property; and

(B) the data and calculations used to estimate the future income;

in any proposed purchase price, offer to purchase, or offer of settlement submitted by the state educational institution to the owner of the property.

(3) If the state educational institution does not agree with the owner of the operating business concerning the capitalized value of the estimated future income of the business after the date the state educational institution would acquire the property, the state educational institution may file a complaint for that purpose with the clerk of the circuit court of the county where the property is located as provided in section 4 of this chapter.

(4) If the state educational institution pays damages under section 10 of this chapter as assessed under section 9 of this chapter concerning property that contains an operating business:

(A) the state educational institution must also pay the owner of the business the capitalized value of the estimated future income of the business after the date the state educational institution would acquire the property before the state educational institution may take possession of and hold the interest in the property; and

(B) the payment and amount of the capitalized value of the estimated future income is subject to:

(i) appeal by the owner of the business as a defendant in an action as provided in section 8 of this chapter; and

(ii) review by any party in an action as provided in section 11 of this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 54, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 14, delete "attempts" and insert "**wants**".

Page 2, line 16, delete ", in addition to paying the owner of the" and insert ":

(1) the state educational institution must submit the state educational institution's plan to obtain the property through the use of eminent domain, which must include the state educational institution's intended use for the property, to the:

(A) budget committee; and

(B) budget agency;

(2) after the plan described in subdivision (1) is reviewed by the budget committee, the budget agency must approve or disapprove the plan; and

(3) if the budget agency approves the plan under subdivision (2), in addition to paying the owner of the property:

(A) the fair market value of the property;

(B) the fair market value of all improvements pertaining to the property; and

(C) any other damages to which the owner of the property is entitled;

the state educational institution must pay the owner of the business the capitalized value of the estimated future earnings of the business after the date the state educational institution would acquire the property;

before the state educational institution may acquire the property."

Page 2, delete lines 17 through 27.

Page 2, line 42, delete "earnings" and insert "**income**".

Page 3, line 4, delete "earnings;" and insert "**income;**".

Page 3, line 10, delete "earnings" and insert "**income**".

Page 3, line 22, delete "earnings" and insert "**income**".

Page 3, line 27, delete "earnings" and insert "**income**".

and when so amended that said bill do pass.

(Reference is to SB 54 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 4.

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Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that, subsequent to the adoption of the Corrections, Criminal, and Civil Matters Committee Report on January 12, 2012, Senate Bill 54 was reassigned to the Committee on Appropriations.

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