S T A T E O F N E W Y O R K

1672

2009-2010 Regular Sessions

I N S E N A T E

February 4, 2009

Introduced by Sens. FLANAGAN, BONACIC, DeFRANCISCO, LANZA, LARKIN, LITTLE, MORAHAN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT providing for the creation of a temporary state commission to examine eminent domain laws and make recommendations for reforms thereof and making an appropriation therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and intent. The legislature hereby finds and declares that eminent domain is an important tool for government to move forward on important public projects. However, there needs to be a thorough examination to determine how public projects that are primarily economic development projects affect homeowners. There needs to be a balance between the needs of society and the constitutional power of government to exercise its eminent domain powers, and the constitutional liberty and property rights of the people.

S 2. A temporary state commission, to be known as the commission on eminent domain reform, hereinafter referred to as the commission, is hereby created to examine, evaluate, and make recommendations concerning the scope and effectiveness of the eminent domain procedure law and the legislature's grant to certain public and other entities to exercise the power of eminent domain. Specifically the commission shall examine at least the following:

(a) the appropriate constitutional standard for condemnation proceedings used for the economic development where private homeowners are affected; and

(b) the procedural fairness of the eminent domain procedure laws.

S 3. The commission shall consist of thirteen members, to be appointed as follows: three members to be appointed by the governor; three members to be appointed by the temporary president of the senate; three members to be appointed by the speaker of the assembly; one member to be

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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appointed by the minority leader of the senate; one member to be appointed by the minority leader of the assembly; one member shall be appointed by the comptroller, and one member shall be appointed by the attorney general. The appointees shall have demonstrated expertise in the field of eminent domain law. The governor shall designate the chairperson and vice-chairperson of the commission. Vacancies in the membership of the commission and among its officers shall be filled in the manner provided for original appointments or designations.

S 4. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder. To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources, and data of any court, department, division, board, bureau, commission, or agency of the state or any political subdivision thereof as it deems necessary or desirable to carry out properly its powers and duties hereunder.

S 5. The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor.

S 6. The commission may meet within and without the state, shall hold public hearings, and shall have all the powers of a legislative committee pursuant to the legislative law.

S 7. The commission shall submit its findings and recommendations in a report to the governor, the temporary president of the senate, and the speaker of the assembly not later than one year after it first convenes.

S 8. The sum of one hundred thousand dollars ($100,000), or so much thereof as may be necessary, is hereby appropriated to pay the expenses incurred, including personal service, in carrying out the provisions of section nine of this act. Such moneys shall be payable out of the state treasury in the general fund to the credit of the state purposes account after audit by and on the warrant of the comptroller upon vouchers certified or approved by the chairperson or vice-chairperson of the commission as prescribed by law.

S 9. This act shall take effect immediately; provided that the temporary state commission established pursuant to section two of this act shall expire and be terminated on the first day next succeeding the date of the submission of its report as provided in section seven of this act and; provided further, however, that the chairperson of the temporary commission on eminent domain reform shall notify the legislative bill drafting commission upon the submission of its report as provided for in section seven of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.