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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 288
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. D. Manning

Andrew Little, Attorney

SUMMARY

- Prohibits the use of eminent domain for the purpose of providing a recreational trail.

DETAILED ANALYSIS

Ohio's Eminent Domain Law (R.C. Chapter 163) sets the procedure to be used when a public agency appropriates (takes) private property for public use. One requirement that must be met in order for a public entity to take private property is that the taking must be for a public use. This is a requirement under Eminent Domain Law as well as the Ohio and United States Constitutions.¹

The bill limits the public uses to which property taken pursuant to the Eminent Domain Law may be put. Specifically, it prohibits property from being taken for the purpose of providing a recreational trail. The bill defines "**recreational trail**" as a public trail that is used for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel.² (See **COMMENT**.)

COMMENT

The extent to which the bill will apply to municipal corporations is unclear. The Ohio Constitution's Home Rule Amendment grants municipalities the authority to exercise all powers of local self-government. According to the Ohio Supreme Court, eminent domain is within those powers.³ So, legislative attempts to limit the purpose for which a municipal corporation may

¹ U.S. Const., Am. V and IV; Ohio Const., art. I, sec. 19.; R.C. 163.021, not in the bill.

² R.C. 163.022.

³ Ohio Const., art. XVIII, sec. 3; *State ex. Rel. Bruestle v. Rich*, 159 Ohio St. 13, 32 (1953).

take property through eminent domain may not be effective, but only a court can make that determination.

The edges of the bill’s reach are undefined. The bill plainly prohibits the use of eminent domain for the sole purpose of providing a recreational trail. What is not plain, however, is whether the bill’s prohibition applies to a taking with many purposes, one of which is a recreational trail. For example, it is unclear whether the bill will permit a taking to provide land for a park with several amenities, including a recreational trail.

HISTORY

Action	Date
Introduced	06-18-19
