

As Introduced

136th General Assembly

Regular Session

2025-2026

S. B. No. 361

Senator Schaffer

To amend section 163.01 of the Revised Code to
prohibit the use of eminent domain for
recreational trails.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 163.01 of the Revised Code be
amended to read as follows:

Sec. 163.01. As used in sections 163.01 to 163.22 of the
Revised Code:

(A) "Public agency" means any governmental corporation,
unit, organization, instrumentality, or officer authorized by
law to appropriate property in the courts of this state.

(B) "Private agency" means any corporation, firm,
partnership, voluntary association, joint-stock association, or
company that is not a public agency and that is authorized by
law to appropriate property in the courts of this state.

(C) "Agency" means any public agency or private agency.

(D) "Court" means the court of common pleas or the probate
court of any county in which the property sought to be
appropriated is located in whole or in part.

(E) "Owner" means any individual, partnership,

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association, or corporation having any estate, title, or
interest in any real property sought to be appropriated. 20
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(F) "Real property," "land," or "property" includes any
estate, title, or interest in any real property that is
authorized to be appropriated by the agency in question, unless
the context otherwise requires. 22
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(G) "Public utility" has the same meaning as in section
4905.02 of the Revised Code and also includes a public utility
owned or operated by one or more municipal corporations, an
electric cooperative, and an agency holding a certificate of
public convenience and necessity granted by the federal energy
regulatory commission. 26
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(H) (1) "Public use" does not include any taking that is
for conveyance to a private commercial enterprise, economic
development, or solely for the purpose of increasing public
revenue, unless the property is conveyed or leased to one of the
following: 32
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(a) A public utility, municipal power agency, or common
carrier; 37
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(b) A private entity that occupies a port authority
transportation facility or an incidental area within a publicly
owned and occupied project; 39
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(c) A private entity when the agency that takes the
property establishes by a preponderance of the evidence that the
property is a blighted parcel or is included in a blighted area. 42
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(2) "Public use" does not include any taking of property
for use as a trail for hiking, bicycling, horseback riding, ski
touring, canoeing, or other nonmotorized forms of recreational
travel. 45
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<u>(3)</u> All of the following are presumed to be public uses: utility facilities, roads, sewers, water lines, public schools, public institutions of higher education, private institutions of higher education that are authorized to appropriate property under section 3333.08 of the Revised Code, public parks, government buildings, port authority transportation facilities, projects by an agency that is a public utility, and similar facilities and uses of land.	49 50 51 52 53 54 55 56
(I) "Electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.	57 58
(J) "Good faith offer" means the written offer that an agency that is appropriating property must make to the owner of the property pursuant to division (B) of section 163.04 of the Revised Code before commencing an appropriation proceeding.	59 60 61 62
(K) "Goodwill" means the calculable benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances that result in probable retention of old, or acquisition of new, patronage.	63 64 65 66 67
(L) "Municipal power agency" has the same meaning as in section 3734.058 of the Revised Code.	68 69
(M) "Port authority transportation facility" means any facility developed, controlled, or operated by a port authority for the purpose of providing passenger, cargo, or freight transportation services, such as airports, maritime ports, rail facilities, transit facilities, and support facilities directly related to any airport, maritime port, rail facility, or transit facility.	70 71 72 73 74 75 76
Section 2. That existing section 163.01 of the Revised	77

Code is hereby repealed.

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