

HOUSE BILL 64
EMINENT DOMAIN PROCEDURE
OPPONENT TESTIMONY

Alexandra Denney

Vice President of Government Relations & Communications

Chairman Hillyer, Vice Chair Mathews, Ranking Member Galonski and members of the House Civil Justice Committee, thank you for the opportunity to present opponent testimony on Substitute House Bill 64.

My name is Alexandra Denney and I am the Vice President of Government Relations and Communications for the Ohio Business Roundtable, a statewide business association of CEOs and Presidents of the top companies in the state. We currently have over 100 members, and the companies collectively employ over half a million Ohioans and generate a revenue of more than \$1.5 trillion, which helps support Ohio's economy.

Our membership is inclusive of industry leading companies representing over 20 Ohio industries which includes—but is not limited to—companies such as KeyBank and Huntington representing the banking sector; Cincinnati Financial and Nationwide in the insurance sector; Kokosing representing construction; CareSource and Cleveland Clinic, representing healthcare; The J.M. Smucker Company and Wendy's representing the food industry; Owens Corning, RPM International, Inc, and Cleveland Cliffs in the manufacturing sector; and many more.

The Ohio Business Roundtable, and the members we represent, are focused on promoting the economic competitiveness of the buckeye state. We are all aware of the significant progress Ohio has made in recent years given several economic development wins. However, we believe Substitute House Bill 64 will stifle that momentum and deter future investment.

Current Ohio law provides for considerable deference for property owners in Ohio and strikes a balance between property owner rights and necessary public projects. The law

requires reasonable appraisal processes and timelines for property owners and agencies to reach an equitable agreement for transferring ownership before a petition for appropriation can be pursued.

While the law urges the court to hear the appropriation case “at the earliest practicable moment,” the reality is an eminent domain case in Ohio can take years, and the filing agency cannot gain ownership of the property until all proceedings have been finalized. This provision in and of itself is effective at providing significant incentive for agencies to reach a mutual agreement with property owners to avoid lengthy and costly litigation.

Substitute House Bill 64 includes several provisions that establish significant barriers to economic development. The first is that it eliminates the presumption of the necessity of an appropriation in favor of a public utility or common carrier that presents evidence supporting that necessity. In addition to removing this presumption, the bill also increases the burden of proof from preponderance of the evidence to clear and convincing evidence.

The bill also extends the timeline of eminent domain cases by increasing the minimum number of days for action, however it does so without establishing a maximum. For the case of certain property owner appeals, the bill establishes an indefinite timeline. This will only extend the litigation process which, as stated before, can already be a considerably lengthy process under current Ohio law.

Substitute House Bill 64 also requires courts hearing appropriation actions to award damages they consider appropriate if an agency uses coercive actions at any time during the appropriations process. However, the bill does not define coercive actions and only requires a preponderance of evidence for such cases rather than the clear and convincing standard that the entity is held to.

Ohio is experiencing significant growth in new industries such as semiconductors and biopharmaceuticals, as well as transforming industries such as car manufacturing. Businesses are recognizing this growth and want to come to Ohio, or expand their

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existing footprint. But, Sub. HB 64 jeopardizes that growth and signals that Ohio is not truly open for business.

While the Ohio Business Roundtable fully supports a responsible balance between property owner rights and public interest, we believe House Bill 64 goes far beyond a reasonable balance and are especially concerned with the impact to public utilities access for Ohioans. For that reason, the Ohio Business Roundtable is opposed to Substitute House Bill 64 in its current form.

Thank you for the opportunity to provide testimony. I am happy to answer any questions the committee might have.