

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 1, 2006, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department  
Helen Pedigo, Office of Revisor of Statutes  
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Ron Gaches, Coalition for Job Growth  
Cheryl Lyn Higgins, Kansas Chamber of Commerce Executives  
Doug Kensinger, Kansas Economic Development Alliance  
Bill Yanek, Director of Governmental Relations, Kansas Association of Realtors  
Don Moler, Executive Director, League of Kansas Municipalities  
Randall Allen, Executive Director, Kansas Association of Counties  
Don Denney, Media Relations Specialist, Unified Government  
Neil R. Shortlidge, City Attorney, City of Roeland Park, KS  
William L. Frost, City Attorney, City of Manhattan, KS

Others attending:

See attached list.

Bill Introductions

Doug Smith, Kansas Credit Attorneys Association requested introduction of a bill to amend K.S.A. 61-3005 regarding civil procedures for limited actions. Senator Schmidt moved, Senator Goodwin seconded, to introduce as a committee bill. Motion carried.

The hearing continued on:

**SB 323--Eminent domain; restricting government authority to take property**  
**SB 446--Eminent domain; fairness in economic development act**  
**SCR 1612--Eminent domain; proposed constitutional amendment restricting government authority to take property.**  
**SCR 1616--Eminent domain; proposed constitutional amendment restricting government authority to take property**

Note: Due to hearing several eminent domain bills at one time some testimony will appear to be out of place, several conferees opposed one bill and supported other bills at the same time, others chose to simply address the issue of eminent domain.

Ron Gaches spoke as an opponent of **SB 323** because it has very narrow exceptions for use of eminent domain and **SCR 1616** because it will completely eliminate the use of eminent domain for economic development projects (Attachment 1). He expressed support of **SB 446** as an effective tool for local governments to use eminent domain for economic developments to benefit the community while providing protection for property owners.

Cheryl Lyn Higgins spoke in favor of the use of eminent domain as an economic tool for cities to rehabilitate blighted areas (Attachment 2). Eminent domain was a crucial tool for the City of Wichita when dealing with an out of state, absent landlord.

Doug Kinsinger spoke in opposition to any legislation that would ban or significantly limit eminent domain (Attachment 3). Mr. Kinsinger supported increased protections for property owners, increased level of scrutiny of local governments when utilizing eminent domain and balanced consideration for the needs of both communities and property owners.

CONTINUATION SHEET

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Bill Yanek testified in opposition to legislation that would ban the use of eminent domain for economic development (Attachment 4). Any legislative action impacting the use of eminent domain in Kansas should balance private property rights with the need for economic development. The Kansas Association of Realtors support mandating a heightened level of scrutiny when eminent domain is used and show that the condemnation serves an important state interest.

Don Moler appeared in opposition to **SB 323**, **SCR 1612**, and **SCR 1616** and in support of **SB 446** (Attachment 5). Eminent domain is a tool that should be used sparingly, with adequate protection for private property owners. To date, the use of eminent domain has been used sparingly and successfully. It should not be taken away from local government. **SB 446** strengthens the rights of private property owners while at the same time preserving the power of eminent domain for economic development purposes for the benefit of the public in the hands of local governments.

Randall Allen spoke in opposition to **SB 323**, **SCR 1612** and **SCR 1616** which restricts the ability of county governments in Kansas to exercise eminent domain for economic development purposes (Attachment 6). Mr. Allen supports a proposal which would balance the competing interests of private property rights with economic development.

Don Denny spoke in opposition to **SB 323**, **SCR 1612** and **SCR 1616** (Attachment 7). Mr. Denny described the use of eminent domain in Wyandotte County, Kansas and the resulting economic benefits. He supports the use of eminent domain as a tool in economic development.

Neil Shortlege spoke in opposition to **SB 323**, **SCR 1612** and **SCR 1616** and in support of **SB 446** (Attachment 8). He provided his experience with the successful use of eminent domain in Roeland Park.

Bill Frost spoke in opposition to **SB 323**, **SCR 1612**, **SCR 1616** and in support of **SB 446** (Attachment 9). He has first hand knowledge on both sides of the eminent domain issue and regardless of the project, it is often an emotionally difficult experience for the property owner. It is crucial that local officials be held accountable for maintaining the delicate balance between public benefit and private ownership.

Written testimony in opposition of **SB 323** and **SCR 1616** was submitted by:  
Andrew Nave, President, Johnson County Partnership, (Attachment 10)  
Ashley Sherard, Vice President, Lenexa Chamber of Commerce, (Attachment 11)

Written testimony in opposition of **SCR 1612** and **SCR 1616** was submitted by:  
James Clark, Kansas Bar Association, (Attachment 12)

Written testimony in opposition of **SB 323**, **SCR 1612** and **SCR 1616** and in support of **SB 446** was submitted by:  
Robert J. Watson & Jane Neff-Brain, City of Overland Park, KS (Attachment 13)  
Christy Caldwell, Greater Topeka Chamber of Commerce (Attachment 14)  
Robert J. Vancrum, Greater Kansas City Chamber of Commerce (Attachment 15)  
Wes Ashton, Overland Park Chamber of Commerce (Attachment 16)

Written testimony in general terms was submitted by:  
William Davitt, Wichita, KS (Attachment 17)

The Chairman announced that testimony will continue at the meeting scheduled for February 3, 2006.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is February 2, 2006.