

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1852

By: Jolley

AS INTRODUCED

An Act relating to eminent domain; amending 11 O.S. 2001, Section 22-104, which relates to rights of municipalities; modifying certain right; amending 27 O.S. 2001, Section 5, which relates to certain powers to exercise eminent domain; expressing limitation of such power; creating the Oklahoma Private Property Owners Protection Act; providing short title; prohibiting use of eminent domain for economic development; defining term; providing that prohibition is subject to power expressly granted elsewhere in law; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 22-104, is amended to read as follows:

Section 22-104. Every municipality shall have the right to:

1. Engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from the municipality and to do all things necessary and proper in the discretion of the governing body of the municipality pursuant to the authority granted to it by the Constitution and laws of this state to maintain said business or enterprise for the benefit of the municipality;

2. Acquire, own, and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose including but not limited to public utility and public park purposes, and for the location thereon of waterworks, electric light and gas plants and other facilities for generating or distributing energy, ports, airports, hospitals, quarantine stations, garbage reduction plants, pipelines for the transmission and transportation

of gas, water, stormwater, and sewerage, and for any plant for the manufacture of any material for public improvement purposes and public buildings;

3. Exercise the right of eminent domain for ~~any municipal purpose~~ the purposes enumerated in paragraph 2 of this section, and subject to the limitations of the Oklahoma Private Property Owners Protection Act created in Section 3 of this act, within or without its corporate limits, and to establish, lay, and operate any plant or pipeline upon any land or right-of-way taken pursuant to eminent domain. Any business or profession which is affected by the right of eminent domain as exercised pursuant to the provisions of this section shall be considered as a property right of the owner thereof and proper allowance therefor shall be made;

4. Exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in the municipality, or to sell the same;

5. Issue and sell bonds subject to and by virtue of the provisions of the Constitution of this state and in the manner and form provided by law in order to raise the monies to establish and maintain public utilities, parks, and improvements;

6. Sell or lease to any consumer or corporation, within or without its boundaries, the commodities and services supplied by such municipally owned or controlled public utility, business enterprise, or improvement and to enter into such short- or long-term contracts, agreements, and stipulations and do all things necessary and proper to further the capability of the municipality pursuant to the authority granted to it by the Oklahoma Statutes and the Constitution of this state to provide said commodities and services as may be deemed appropriate by the governing body of the municipality;

7. Lease at a stipulated rental rate any public improvement or utility from any person, firm, or corporation which will contract to furnish the same. Any such rental contract shall reserve for the municipality the option to purchase the improvement or utility in the future; and

8. Exercise powers necessary to carry out the purpose of the Local Development Act as set forth in Section 854 of Title 62 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 27 O.S. 2001, Section 5, is amended to read as follows:

Section 5. Any county, city, town, township, school district, or board of education, or any board or official having charge of cemeteries created and existing under the laws of this state, shall have power to condemn lands in like manner as railroad companies, for highways, rights-of-way, building sites, cemeteries, public parks and other public purposes, subject to the Oklahoma Private Property Owners Protection Act, created in Section 3 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5.1 of Title 27, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Private Property Owners Protection Act".

B. No governmental entity may exercise the power of eminent domain or allow the exercise of such power by an entity to which such power has been delegated, to take property for use solely for economic development.

C. The term "economic development" means any activity to increase tax revenue, tax base, employment, or general economic health.

D. The prohibition in this act is subject to the right to exercise the power of eminent domain where expressly granted elsewhere in law.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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