

AMENDED IN ASSEMBLY MAY 1, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1161

Introduced by Assembly Members Tran and Spitzer

February 23, 2007

An act to add Section 103 to, *and to repeal Section 118.5 of*, the Streets and Highways Code, relating to highways.

LEGISLATIVE COUNSEL'S DIGEST

AB 1161, as amended, Tran. Eminent domain.

Existing law authorizes the Department of Transportation to acquire any property necessary for state highway purposes by eminent domain, either in fee or in any lesser estate or interest. ~~Existing law prohibits the department from disposing of property acquired through eminent domain through public sale if the property is no longer required for highway purposes, unless the department pays an amount to the county auditor equal to the property taxes that would have been paid by the owner if the property had not been acquired by the department, minus a specified deduction.~~

This bill would require the department, upon acquiring property through eminent domain, to designate the particular project for which the property is being acquired, and would require the department to use the property for that purpose within 7 years, plus an extension of an additional 5 years, if obtained, or to otherwise sell the property, as specified. *The bill would require the department to first offer the property for sale to the original owner, or his or her descendants, as applicable, at the original purchase price paid by the department or the current market price, whichever is less.*

Existing law prohibits the department from disposing of property acquired through eminent domain through public sale if the property is no longer required for highway purposes, unless the department pays an amount to the county auditor equal to the property taxes that would have been paid by the owner if the property had not been acquired by the department, minus a specified deduction.

This bill would repeal that provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 103 is added to the Streets and Highways
2 Code, to read:
3 103. Notwithstanding any other provision of law, the
4 department, upon acquiring property through eminent domain,
5 shall designate the particular project for which the property is being
6 acquired. From the date of taking possession, the department shall
7 have seven years to use the property for the project. The department
8 may obtain a five-year extension prior to the expiration of the
9 seven-year period, subject to approval of the commission, if the
10 project has not been utilized for the particular project for which it
11 was acquired. Upon the expiration of the initial seven-year period,
12 if an extension is not obtained, or upon the expiration of the
13 subsequent five-year extension, if it is obtained, the property shall
14 be offered for sale ~~if it has not been utilized for the particular~~
15 ~~project for which it was acquired.~~ At the time the property is
16 offered for sale, it shall first be offered for sale to the previous
17 ~~owners~~ owner from whom the property was acquired, or if
18 deceased, to ~~their~~ his or her descendants, if known, and the
19 previous ~~owners~~ owner or the descendants, as the case may be,
20 shall have a right of first refusal in that regard. *The property shall*
21 *be offered for sale to the original owner or descendants, as the*
22 *case may be, at the price at which the property was originally*
23 *purchased by the department or the current market price,*
24 *whichever is less.* Thereafter, if the property is not sold under the
25 right of first refusal within one year of being offered for sale, the
26 property shall be offered for sale to the general public and sold to
27 ~~the highest bidder.~~ *disposed of as provided in Article 8.5*
28 *(commencing with Section 54235) of Chapter 5 of Division 2 of*

1 *Title 5 of the Government Code or other applicable provisions of*
2 *law.*

3 *SEC. 2. Section 118.5 of the Streets and Highways Code is*
4 *repealed.*

5 ~~118.5. No parcel of property acquired by eminent domain for~~
6 ~~the purposes specified in Section 104 which, in its entirety, is found~~
7 ~~to be no longer necessary for such purposes shall be subject to~~
8 ~~public sale, unless an amount equal to the taxes which would have~~
9 ~~been paid by the owner had the property not been acquired by the~~
10 ~~state is transmitted by the department to the county auditor of the~~
11 ~~county in which the property is located. The amount of any~~
12 ~~payments made pursuant to Section 104.10 with respect to the~~
13 ~~property shall be deducted from the amount required to be~~
14 ~~transmitted pursuant to this section.~~

15 ~~The money received by the county under this section shall be~~
16 ~~expended only for the purposes authorized by Article XIX of the~~
17 ~~California Constitution.~~