

1 SB343  
2 165834-1  
3 By Senator Whatley  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 07-APR-15

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8 SYNOPSIS: Under existing law, there are limitations  
9 on condemnations.

10 This bill would further limit the  
11 condemnation of property if the primary use for the  
12 property is for private gain, private benefit,  
13 private enterprise, increasing jobs, increasing tax  
14 revenue, or economic development.

15 This bill would require each entity prior to  
16 initialing a condemnation procedure to define what  
17 is included in just compensation for the taking or  
18 damaging of property and it shall take only a  
19 portion of private property necessary for public  
20 use.

21  
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25  
26 To amend Section 18-1B-2, Code of Alabama 1975,  
27 relating to limitations on condemnation; to limit the

1 condemnation of property if the primary use for the property  
2 is for private gain, private benefit, private enterprise,  
3 increasing jobs, increasing tax revenue, or economic  
4 development; and to require each entity prior to initialing a  
5 condemnation procedure to define what is included in just  
6 compensation for the taking or damaging of property and it  
7 shall take only a portion of private property necessary for  
8 public use.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 18-1B-2, Code of Alabama 1975, is  
11 amended to read as follows:

12 "§18-1B-2.

13 "(a) (1) Neither the State of Alabama, nor any of its  
14 departments, divisions, agencies, commissions, corporations,  
15 boards, authorities, or other entities, nor any agency,  
16 corporation, district, board, or other entity organized by or  
17 under the control of any municipality or county in the state  
18 and vested by law to any extent whatsoever with the power of  
19 eminent domain may condemn property for the purpose of  
20 nongovernmental retail, office, commercial, residential, or  
21 industrial development or use; provided, however, the  
22 foregoing provisions of this subsection shall not apply to the  
23 exercise of the powers of eminent domain by any county,  
24 municipality, housing authority, or other public entity based  
25 upon a finding of blight in an area covered by any  
26 redevelopment plan or urban renewal plan pursuant to Chapters  
27 2 and 3 of Title 24, where the primary use is for private

1 gain, private benefit, private enterprise, increasing jobs,  
2 increasing tax revenue, or economic development, or to the  
3 exercise of eminent domain by or for the benefit of public  
4 utilities or other entities engaged in the generation,  
5 transmission, or distribution of telephone, gas, electricity,  
6 water, sewer, or other utility products or services. Nothing  
7 in this section shall be interpreted to prohibit the state or  
8 a municipal or county governing body from exercising the power  
9 of eminent domain for the purpose of constructing,  
10 maintaining, or operating streets and roadways, government  
11 buildings, or park and recreation facilities.

12 "(2) An entity prior to initialing a condemnation  
13 procedure shall define what is included in just compensation  
14 for the taking or damaging of property and it shall take only  
15 a portion of private property necessary for public use.

16 "(b) Property condemned by an entity described in  
17 subsection (a), if not ever used for the purpose or purposes  
18 for which it was condemned or for some other public use, that  
19 is subsequently determined to be sold, shall be first offered  
20 for sale to the person or persons from whom the property was  
21 condemned, or his or her known or ascertainable heirs or  
22 assigns, at the price which was paid for the property, less  
23 such amount, if any, as the person shall show by good and  
24 sufficient documentation to be the amount of income and  
25 transaction taxes, if any, actually paid in connection  
26 therewith, and if the offer shall not be accepted within 90  
27 days from the date it is made, the property may be sold to any

1 other person or persons but only at public sale after legal  
2 notice is given."

3 Section 2. This act shall become effective  
4 immediately following its passage and approval by the  
5 Governor, or its otherwise becoming law.