CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 27, 2013

H.R. 1944
Private Property Rights Protection Act of 2013

As ordered reported by the House Committee on the Judiciary on June 12, 2013

H.R. 1944 would deny federal economic development assistance to state or local governments that exercise the power of eminent domain for economic development purposes or to take property from a tax-exempt entity, such as a religious or nonprofit organization. (Eminent domain is the right to take private property for public use.) The bill also would prohibit federal agencies from engaging in such practices. Private property owners would be given the right to bring legal actions seeking enforcement of those provisions, and the bill would waive states' Constitutional immunity to such suits. Finally, H.R. 1944 would require the Attorney General to notify states and the public of how the legislation would affect individuals' property rights and to report to the Congress each year on private rights of action brought against state and local governments.

The federal government provides economic development assistance to state and local governments through several programs, including the Community Development Block Grant Program, the Social Services Block Grant Program, Economic Development Administration Grants, Department of Agriculture grants and loans, and grants made by the regional commissions. CBO estimates that expenditures from those major programs totaled more than $7 billion in 2012 (although, depending on how the term is interpreted, some of those expenditures may not meet the definition of economic development under the bill).

CBO expects that few state and local governments would receive reduced federal assistance because the use of eminent domain for the purposes targeted by the bill would be infrequent. Therefore, CBO estimates that implementing this legislation would have no significant net effect on those expenditures to state and local governments over the next five years. We estimate that additional reporting by the Attorney General would cost less than $500,000 over the next five years, assuming appropriation of the necessary amounts. Enacting H.R. 1944 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1944 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but it would impose significant new conditions on the receipt of federal economic development assistance by state and local governments. (Such conditions are not considered mandates under UMRA.) Because the bill's provisions would apply to a large pool of funds, the bill effectively would restrict the use of eminent domain by state and local governments and would limit the ability of local governments to manage land use in their jurisdictions. Further, state and local governments could incur significant legal expenses to respond to private legal actions authorized by the bill.

Many states have amended their constitutions or enacted laws to directly or indirectly prohibit the use of eminent domain for economic development purposes. Furthermore, the bill would provide several exceptions, including takings for public use, for public rights of way, for utilities, to acquire abandoned property, and to remove immediate threats to public health and safety. While data on eminent domain is difficult to obtain at the national level, evidence suggests that its use solely for economic development purposes is minimal compared to other purposes, such as public infrastructure projects (which would be allowed under the bill without penalty). Finally, CBO expects that most state and local governments would not risk the loss of federal economic development assistance by exercising the use of eminent domain in situations described by the bill.

State or local governments found to have exercised the power of eminent domain targeted by the bill would be ineligible for federal economic development assistance for two years. In those cases, CBO expects that property would be returned or replaced (which would reinstate eligibility) or that assistance would instead be provided to other eligible entities. Any change in the pace of spending would be insignificant, CBO estimates.

The CBO staff contacts for this estimate are Daniel Hoople (for federal costs) and Melissa Merrell (for state and local impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.