



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 2468

PRINTERS NO. 3803

PRIME SPONSOR: Kampf

### COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
Commonwealth Funds	\$0	\$0
Political Subdivision Funds	\$0	\$0

**SUMMARY:** Limits the use of eminent domain by governmental agencies, including school districts, on land that has been set aside with a conservation easement for parks and open space purposes from condemnation and taking under the Eminent Domain Code. This legislation would take effect immediately and would only be applicable to any condemnation procedure initiated since January 1, 2018 with respect to land subject to a conservation easement.

**ANALYSIS:** This legislation amends Title 26 (Eminent Domain) of the PA Consolidated Statutes to require court approval before a government agency or political subdivision can take land that has been permanently preserved.

The legislation adds a section 208 (Eminent domain of land subject to conservation easement.) This section states that no political subdivision, authority, public utility or other body having or exercising powers of eminent domain shall condemn land subject to a conservation easement, unless it has received prior approval from the county Orphans' Court.

The legislation exempts an underground public utility facility that will not permanently impact the open space benefits protected by the easement as well as a public utility facility or other project that is subject to approval by a Federal agency, where the propriety and environmental effects of which has been reviewed and ratified by the PA Public Utility Commission or the Federal Regulatory Commission, regardless of whether the right to establish and maintain such underground or other public utility facility is obtained by condemnation or by agreement with the owner..

The exercise of eminent domain shall not be authorized under Section 205 (relating to blight) unless the court determines the exercise is necessary to protect the health and safety of the community.

Any agency or political subdivision wishing to condemn property under this section, shall notify the Orphans' Court 30 days prior to taking such action.

The court shall review the proposed condemnation and approve the proposed condemnation only if the court determines there is no reasonable and prudent alternative to the utilization of the land subject to a conservation easement for the project.

The Orphans' Court may request the Attorney General to bring an action to enjoin a condemnor from violating any provision of this section.

The provisions of this section shall not apply to any emergency project which is immediately necessary for the protection of life or property or condemnations by an agency of the Commonwealth for any purpose.

The legislation contains a severability clause in the event that any provision of the act is held invalid.

**FISCAL IMPACT:** This legislation would have no adverse fiscal impact on Commonwealth or political subdivision funds.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** June 22, 2018

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*