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FISCAL IMPACT REPORT

SPONSOR: Luna DATE TYPED: 01/28/03 HB 129

SHORT TITLE: Condemnation for Sewer Facilities SB _____

ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Department of Environment
 Office of the Attorney General

SUMMARY

Synopsis of Bill

House Bill 129 amends Section 3-26-1 of the Municipal Code regarding condemnation of private lands for sanitary sewer systems. The bill would impose certain criteria on municipalities before asserting its powers under eminent domain for condemnation of private property. These conditions require the municipality to seek the State Engineer determination that water rights appurtenant to the land being condemned have been severed, that no suitable land exists in the public domain, that the municipality has no other alternatives than condemnation, and that condemnation is the most economical alternative.

HB 129 also makes minor changes to the existing statute.

Significant Issues

The bill would limit the authority of municipalities in exercising its powers under eminent domain. These conditions could likely extend the length of time and increase the cost of condemnation. To comply with the first condition, the municipality would have to wait until the private landowner received approval from the State Engineer to transfer the water rights appurtenant

with the land. According to the Environment Department, the second requirement, regarding land in the public domain, would require the municipality to pursue state and federal lands for which they exercise no control and which could involve time-consuming environmental reviews.

FISCAL IMPLICATIONS

HB129 does not contain an appropriation. Enactment would not have an administrative or fiscal impact on any state agency. Any administrative burden, likely, would be shouldered by municipalities, who would be required to demonstrate its compliance with these new criteria.

Because water rights will not be included in the condemnation, the market price paid to the private landowner may decrease.

MFV/njw