

AMENDED IN ASSEMBLY FEBRUARY 24, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 62

Introduced by Assembly Member McKinnor
*(Coauthors: Assembly Members Bonta, Bryan, Elhawary, Gipson,
Jackson, Ransom, Sharp-Collins, and Wilson)*
*(Coauthors: Senators Richardson, Smallwood-Cuevas, and
Weber Pierson)*

December 2, 2024

An act to amend Section 11041 of, and to add Chapter 4 (commencing with Section 16005) to Part 14 of Division 3 of Title 2 of, the Government Code, relating to ~~eminent domain~~. state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 62, as amended, McKinnor. ~~Racially~~Agency: *racially* motivated eminent domain.

~~The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.~~

~~The Eminent Domain Law provides the procedure for the exercise of the constitutional power and authorizes public entities, as defined, to acquire property only for a public use, while specifying that the law does not require that the power of eminent domain be exercised.~~

Existing law establishes, until January 1, 2030, the Racial Equity Commission within the Office of Planning and Research and requires the commission to develop resources, best practices, and tools for advancing racial equity by, among other things, developing a statewide Racial Equity Framework that includes methodologies and tools that

can be employed to advance racial equity and address structural racism in California.

~~This bill would state the intent of the Legislature to enact legislation that would assist victims of racially motivated eminent domain in seeking the return of the taken property, other property of equal value, or financial compensation.~~

This bill would require the Office of Legal Affairs within the _____ Agency, to, upon appropriation by the Legislature, review, investigate, and make certain determinations regarding applications from persons who claim they are the dispossessed owner, as defined, of property taken as a result of racially motivated eminent domain. The bill would define “racially motivated eminent domain” to mean when the state, county, city, city and county, district, or other political subdivision of the state acquires private property for public use and does not distribute just compensation to the owner at the time of the taking, and the taking, or the failure to provide just compensation, was due, in whole or in part, to the owner’s ethnicity or race. Upon a determination that providing property or just compensation is warranted, as provided, the bill would require the Office of Legal Affairs to certify that the dispossessed owner is entitled to the return of the taken property, as specified, or other publicly held property, as defined, of equal value, or financial compensation, as specified. Upon a determination that the dispossessed owner is entitled to other publicly held property of equal value, the bill would require the Office of Legal Affairs to solicit and select, as specified, a list of recommendations of publicly held properties that are suitable as compensation, as provided. Upon a rejection of the determination of the Office of Legal Affairs by the state or local agency that took property by racially motivated eminent domain, the bill would authorize the dispossessed owner, as specified, to bring an action to challenge the taking or the amount of compensation, as provided. Upon a determination that an applicant is not a dispossessed owner or issuing property or just compensation is not warranted, the bill would require the Office of Legal Affairs to notify the applicant of its finding and provide an appeal process, as specified. The bill would make every finding, decision, determination, or other official act of the _____ Agency subject to judicial review.

Existing law generally prohibits state agencies from employing in-house counsel to act on behalf of the agency or its employees in specified judicial or administrative adjudicative proceedings, but exempts specified agencies from this provision.

This bill would exempt the ____ Agency from that provision.

This bill would make related findings and declarations, including those related to a gift of public funds.

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

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

1 *SECTION 1. Section 11041 of the Government Code is*
2 *amended to read:*

3 11041. (a) Section 11042 does not apply to the Regents of the
4 University of California, the Trustees of the California State
5 University, Legal Division of the Department of Transportation,
6 Division of Labor Standards Enforcement of the Department of
7 Industrial Relations, Workers' Compensation Appeals Board,
8 Public Utilities Commission, State Compensation Insurance Fund,
9 Legislative Counsel Bureau, Inheritance Tax Department, Secretary
10 of State, State Lands Commission, Alcoholic Beverage Control
11 Appeals Board (except when the board affirms the decision of the
12 Department of Alcoholic Beverage Control), Department of
13 Cannabis Control (except in proceedings in state or federal court),
14 State Department of Education, Department of Financial Protection
15 and Innovation, *the ____ Agency*, and Treasurer with respect to
16 bonds, nor to any other state agency which, by law enacted after
17 Chapter 213 of the Statutes of 1933, is authorized to employ legal
18 counsel.

19 (b) The Trustees of the California State University shall pay the
20 cost of employing legal counsel from their existing resources.

21 *SEC. 2. Chapter 4 (commencing with Section 16005) is added*
22 *to Part 14 of Division 3 of Title 2 of the Government Code, to*
23 *read:*

24
25 *CHAPTER 4. RESTITUTION FOR RACE-BASED EMINENT DOMAIN*
26

27 16005. (a) *The Legislature finds and declares that it is in the*
28 *public interest to compensate victims of racially motivated eminent*
29 *domain, which deprived persons of just compensation for their*
30 *property due to racially discriminatory motives. The unjust taking*
31 *of land without fair compensation destroyed communities, forced*
32 *many from their historical neighborhoods, deprived those persons*

1 of the fair value of their property, and, in many cases, prevented
2 the accumulation of generational wealth. Providing compensation
3 to these victims of racial discrimination will restore the value of
4 wrongfully taken property to dispossessed owners and hold
5 government entities responsible for those wrongful discriminatory
6 acts.

7 (b) This chapter shall govern the procedure by which
8 dispossessed owners and their descendants may seek a
9 determination that they were the victims of racially motivated
10 eminent domain and seek the return of the taken property, other
11 property of equal value, or financial compensation.

12 16006. (a) For purposes of this section, the following
13 definitions apply:

14 (1) “Dispossessed owner” means a person who has had property
15 taken from them by the state, county, city, city and county, district,
16 or other political subdivision of the state without just compensation
17 as a result of racially motivated eminent domain, or a direct
18 descendant of the person whose property was taken.

19 (2) “Publicly held property” means property that is owned by
20 the state or local agency that took possession of the property that
21 is the subject of an application submitted pursuant to this section.

22 (3) “Racially motivated eminent domain” means when the state,
23 county, city, city and county, district, or other political subdivision
24 of the state acquires private property for public use and does not
25 distribute just compensation to the owner at the time of the taking,
26 and the taking, or the failure to provide just compensation, was
27 due, in whole or in part, to the owner’s ethnicity or race.

28 (b) Upon appropriation by the Legislature, the Office of Legal
29 Affairs within the ____ Agency shall do all of the following:

30 (1) Accept applications from persons who claim they are the
31 dispossessed owner of property taken as a result of racially
32 motivated eminent domain.

33 (2) (A) Review and investigate applications submitted under
34 paragraph (1).

35 (B) As part of its review, the Office of Legal Affairs may request
36 submission of additional information supporting the application
37 that is reasonably necessary to verify the application, determine
38 whether the applicant is a dispossessed owner, and determine
39 whether the taking was racially motivated. If the office makes a
40 request for additional documentation, it shall communicate that

1 request to the applicant with a notice of the additional information
2 required. The office shall consider any additional information
3 provided by the applicant within 30 days of the receipt of the
4 notice.

5 (3) After reviewing all of the relevant materials, determine
6 whether the applicant is a dispossessed owner of property taken
7 through racially motivated eminent domain.

8 (4) (A) If the Office of Legal Affairs determines that an
9 applicant has established that they are a dispossessed owner under
10 paragraph (3), the office shall determine:

11 (i) The present-day fair market value of the property that was
12 taken from them by the state, county, city, city and county, district,
13 or other political subdivision of the state as a result of racially
14 motivated eminent domain.

15 (ii) Whether issuing property or just compensation to that
16 dispossessed owner would serve to redress past acts of racial
17 discrimination, prevent future acts of racial discrimination, and
18 benefit the whole of the community and its general welfare.

19 (B) If the Office of Legal Affairs determines that providing
20 property or just compensation is warranted under clause (ii) of
21 subparagraph (A), the Office of Legal Affairs shall certify that the
22 dispossessed owner is entitled to the return of the taken property
23 if it is still in possession of the public entity that did the taking,
24 other publicly held property of equal value, or financial
25 compensation.

26 (C) If just compensation is warranted, that compensation from
27 the state or local agency shall be in the amount of the fair market
28 value of the property, as determined pursuant to clause (i) of
29 subparagraph (A), minus the amount paid at the time of the taking,
30 adjusted for inflation.

31 (D) If the Office of Legal Affairs determines, pursuant to
32 subparagraph (B), that the dispossessed owner is entitled to other
33 publicly held property of equal value, it shall solicit and select
34 from the state or other jurisdiction, as applicable, a list of
35 recommendations of publicly held properties that are suitable as
36 compensation. If no publicly held property is suitable as
37 compensation, the Office of Legal Affairs shall determine an
38 amount of just compensation pursuant to subparagraph (C).

39 (E) (i) If the state or local agency that took property by racially
40 motivated eminent domain rejects the determination of the Office

1 of Legal Affairs, the dispossessed owner who is entitled to
2 compensation as determined by the Office of Legal Affairs may
3 bring an action to challenge the taking or the amount of
4 compensation under the relevant provisions of the Eminent Domain
5 Law (Title 7 (commencing with Section 1230.010) of Part 3 of the
6 Code of Civil Procedure).

7 (ii) An action brought pursuant to this subparagraph shall not
8 be subject to the statute of limitations, whether the action is brought
9 before or after the enactment of this chapter.

10 (F) Nothing in this chapter shall be a basis for disturbing or
11 invalidating the title to any property taken by racially motivated
12 eminent domain, other than through the procedures set forth in
13 this section.

14 (5) If the Office of Legal Affairs determines that an applicant
15 is not a dispossessed owner or that issuing property or just
16 compensation is not warranted, the office shall notify the applicant
17 of its finding. The applicant may appeal the determination within
18 60 days of receiving the notice and provide additional information
19 to support their claim. The office shall consider the appeal and
20 any new information provided and issue a determination on the
21 appeal within 120 days.

22 (c) Every finding, decision, determination, or other official act
23 of the ____ Agency is subject to judicial review in accordance with
24 law.

25 SEC. 3. The Legislature finds and declares that the addition
26 of Chapter 4 (commencing with Section 16005) to Part 14 of
27 Division 3 of Title 2 of the Government Code by this act serves a
28 public purpose and does not constitute a gift of public funds within
29 the meaning of Section 6 of Article XVI of the California
30 Constitution by redressing past acts of racial discrimination,
31 preventing future acts of racial discrimination, and benefitting the
32 whole of the community and its general welfare.

33 ~~SECTION 1. It is the intent of the Legislature to enact~~
34 ~~legislation that would assist victims of racially motivated eminent~~
35 ~~domain in seeking the return of the taken property, other property~~
36 ~~of equal value, or financial compensation.~~